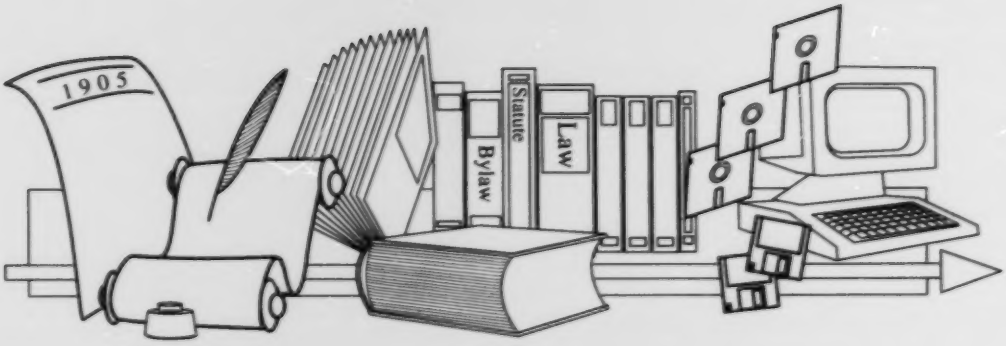
Municipal Government in Alberta

A Municipal Government Act for the 21st century



Alberta

Municipal Statutes Review Committee

March 1991

Alberta
MUNICIPAL STATUTES
REVIEW COMMITTEE

17th Floor, CityCentre, 10155 - 102 Street, Edmonton, Alberta, Canada T5J 4L4 403/427-8861 Fax: 403/420-1016

91-04621/

March 14, 1991

Honourable Raymond A. Speaker
Minister of Municipal Affairs
Room 127 Legislature Building
Edmonton, Alberta T5K 2B6

Dear Mr. Speaker:

On behalf of the members, I have the honour to submit to you the recommendation of the Municipal Statutes Review Committee for a new Municipal Government Act for Alberta.

The recommended Act contains changes in policy and drafting style which the Committee believes are necessary in order to carry out its mandate to "recommend legislation appropriate to carry Alberta municipalities into the 21st century".

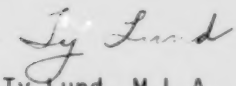
This report begins with an introductory section summarizing the information received by the Committee which influenced its recommendation. The remainder is the Committee's draft of a new Municipal Government Act.

The Committee has appreciated the advice received from Alberta municipalities, government departments, and interested organizations and individuals, all of which greatly assisted the preparation of this report.

Respectfully Submitted,

Glen Clegg M.L.A.
Chairman

COMMITTEE MEMBERSHIP



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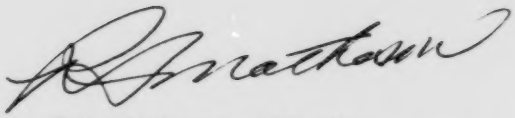

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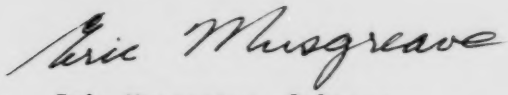

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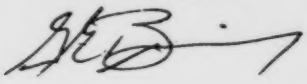

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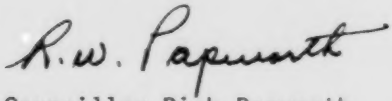

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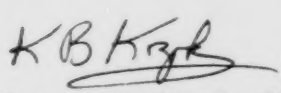

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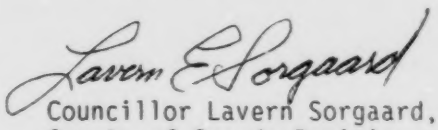

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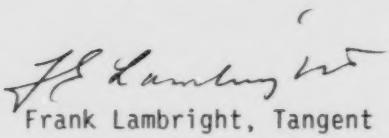

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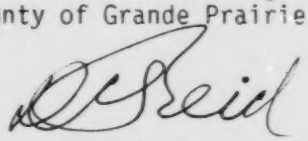

Alderman Craig Reid, Calgary

ACKNOWLEDGEMENTS

The Committee wishes to express its appreciation to the thousands of municipal and provincial officials, organization representatives and individuals who read the Discussion Papers and took part in preparing considered comments and advice.

The advice received from municipal and provincial officials from British Columbia, Saskatchewan, Manitoba, Ontario and Quebec has been of considerable assistance.

The creative insight of Mr. David Elliott, Barrister and Solicitor, who served as Legislative Planner for the Committee, enabled the preparation of a draft Act in plain language and the introduction of significant policy innovations.

The continuing support of the Secretariat (Tom Forgrave, Coordinator; Norm Milke, Deputy Coordinator; Margaret Suelzle, Secretary) has enabled the Committee to function effectively. The experience of the Secretariat members in municipal affairs in Alberta provided the basis for solid policy advice.

INTRODUCTION

THE PROCESS

When the Municipal Statutes Review Committee began its work in 1987, the members had no idea where their journey might lead. They knew only that they had broad terms of reference to examine, in the light of emerging trends in Alberta and elsewhere, and to make recommendations on legislation appropriate to Alberta municipal government in the last decade of the 20th century and into the 21st century (M.O. 728/87).

The Committee immediately sought to engage all interested Albertans in a public consultation on municipal government. The process used involves: publishing "preliminary drafts" which raise questions and float ideas; after considering comments received, publishing "second drafts", moving closer to what it was considering recommending; and, after considering comments received, preparing the final report on the subject.

This was the process used to involve interested people in a wide-ranging discussion of municipal policy - everything from powers to assessment and taxation to council forms and so on. In April, 1989, the Committee published a "Recommended Municipal Policy Statement". It then proceeded to use the process in applying the elements of the municipal policy statement to the development of a new Municipal Government Act. The Committee intends to use the same basic process to develop future legislation recommendations.

Over 3,000 copies of each discussion paper have been mailed to all municipalities and anyone else who indicated an interest, indicating that the Committee has followed a widely consultative process. The following is a brief summary of key activities of the Committee.

August, 1986 Wide coverage newspaper advertising inviting people to register their interest in the Committee's work and to make any observations regarding Alberta's system of municipal government. Information package provided to all municipalities.

Preliminary Draft Discussion Papers on Municipal Policy

March, 1988 What is a Municipality?
April, 1988 What are Municipal Services?
May, 1988 How Should We Be Structured?
June, 1988 How Should Municipalities Be Financed?
July, 1988 External Relations

November, 1988 - Second Draft Discussion Papers

April 1989 - Recommended Municipal Policy Statement

Preliminary Draft Legislation Papers

June, 1989 Establishment of Municipalities
October, 1989 Organization of Municipalities
November, 1989 Authority of Municipalities
December, 1989 Finance of Municipalities
February, 1990 Legal Proceedings
February, 1990 Interpretation and Consultation

October, 1990 Second Discussion Draft
"THE MUNICIPAL GOVERNMENT ACT:
Local Autonomy: You Want It, You Got It"

March, 1991 RECOMMENDED MUNICIPAL GOVERNMENT ACT

In order to make legislation recommendations which are appropriate to the future, the Committee has had to make some assumptions regarding the type of environment in which municipalities will be operating. This task has been made much easier by the current fascination with futures related studies at the onset of the last decade of the century and the millennium.

AN ENVIRONMENTAL SCAN

Perhaps the most reliable projections are those regarding demography. Projections for North America generally indicate declining population during the first half of the next century unless immigration rates increase dramatically. In order to maintain the level of population, Canada will basically need to double its immigration rate, unless those of us who are already here start having a lot more babies! In recent years the predominant share of immigrants has shifted from European/United States people to Asian/West Indian. It is also predicted that the majority of new jobs in the next couple of decades will be in the services and retail sectors of the economy.

During the amazing 1989-90 period there have been dramatic shifts world-wide from autocratic toward participatory forms of government. In North America the shift is from representative to participatory forms of democracy. Advancing technology is likely to encourage that trend as it increasingly facilitates fast, comprehensive opinion polling. People generally are demanding more input into public decision-making. Special interest groups are becoming more active and perhaps more powerful. Such groups are not afraid to go to court or to take other very public actions to oppose impending or actual decisions by governments.

Technological advances will enable the rapid processing of huge volumes of information at speeds which no amount of clerical or professional staff could ever equal. The increasing availability and simplicity of home computers will enable more members of the general public to undertake such analysis by themselves. This will result in participatory activities bolstered by much more information than has been available in the past.

A further consequence of this shift is that the socialism vs. capitalism debate is being muted as many economies and governments adopt programs that blend those two concepts. Support for the truly needy combined with appropriate rewards for entrepreneurial activity is becoming a world-wide phenomenon. Municipalities are facing increased demands for "soft" services related to babies, teenagers, adults and seniors at the same time as they are being required to reinvest in infrastructure. Meanwhile other orders of government, particularly at the federal level, are increasingly preoccupied with deficit reduction programs.

Networking of computers will reduce proprietorship of information. This, coupled with the general trend toward "flatter" organizational structures, will have significant implications for traditional municipal operations. Departmentalization is becoming not only meaningless but anathema for the general public. Governments are increasingly required to find coordinated techniques to deliver services to their customers, the general public,

who are interested in the quality of the service, not whose authority it is to deliver or regulate.

There is a growing belief that we are reaching a threshold beyond which the burden of taxation will become generally unacceptable. Support for "user pay" programs is growing. In the future municipalities must be able to access non-traditional sources of revenue if they are to maintain service levels. There is a growing trend towards ensuring a public share in the equity arising from infrastructure investment and other governmental activities that previously accrued entirely to the private sector.

The predominant issue of our times is the environment. All governments are being drawn into policy and program development to deal with overflowing dumps, discoloured air and the protection of pure water which is THE symbol of the environmental issue. Frequently other orders of government initiate programs that impose responsibilities on municipalities which may not match community priorities or may impose unanticipated expenditures. There is a growing movement to link economic development policies with environmental policies through "roundtables" which forge new partnerships to respond to social, environmental and economic issues.

Finally, there is a definite shift in public expectations regarding government services. People are now less concerned with quantity than they are with quality, a shift from more to better. This is further complicated by the general trend to understand quality as whatever the customer, or citizen, thinks it is. Supreme Court decisions, particularly related to the Charter of Rights, have been perceived by some as promoting the idea that anything can be justified under it rather than reinforcing reliable standards in society.

IMPACT ON MUNICIPALITIES

These projections have major implications for the operations of municipalities. Population growth will likely involve a change in the population mix. Municipalities will have increasing interest in programs and activities that promote inter-racial/multicultural understanding. Competition for services workers will be hot. Municipalities will have to find ways to retain a competent workforce or to otherwise ensure adequate human resources for service delivery through contracting out or joint ventures with other governments or private organizations.

Intermunicipal cooperation, new forms of public/private partnerships, and interest in service quality irrespective of political responsibility, are all leading to the increasing irrelevancy of either inter-jurisdictional or organizational boundaries. Municipalities must have considerable flexibility in the future to respond individually, in partnership with other governments or in joint ventures with the private sector. They also must have the flexibility to reap the benefits of the competitive advantages which they enjoy, enabled to sell at a profit goods, services and information which they are best able to supply.

Municipal government systems must enable municipalities to use new technologies and develop new techniques for citizen participation. Empowering legislation should protect the public nature of local government decision-making but should also enable the use of emerging technologies in the decision-making process.

Empowering legislation should not impose rigid organizational structures on municipalities. While standard corporate requirements are necessary, the internal organization of a municipality should be locally determined so that it may easily adapt to emerging management techniques and practices. Municipalities should be expected to accept and exercise their powers in a responsible fashion.

Empowering legislation should also enable municipal councils to respond to the great issues of the times. At present the issue is the environment in which municipalities have considerable direct involvement. The next great issue is not known but councils must not be disabled from exercising local leadership on local issues of importance to the electors.

QUO VADIS

In its Phase I report, **"Municipal Government in Alberta: A review of yesterday and today; A proposal for tomorrow"**, the Committee wrote:

> *"Much of our legislation arises, however, from times when horses pulled ploughs through fields and the aroma of Grandma's baking rolls scented city streets. Today combines are computer controlled and buildings hermetically sealed. Life, in both urban and rural environments, is complex beyond the wildest dreams or fears of our forefathers"*

It is in the spirit of responding to this changing environment, and what it can understand of the future, that the Committee makes it proposal for a new Municipal Government Act which goes far beyond simply tinkering with the existing Act. There has been a conscious attempt to develop visionary legislation which will put Alberta in a leadership position in municipal governance for the remainder of this century at least.

The emphasis in the recommended Act is on municipal government functions with considerable flexibility as to how those functions are carried out. Municipal empowerment is described as broadly as possible to enable flexibility in responding to the needs and desires of residents.

The proposal recommends that municipalities have the same powers and privileges as ordinary individuals. This means that, within the basic minimum rules laid down in legislation, a municipality can do anything that an individual can do.

An ordinary person cannot make laws so there has to be special authority for the council to make bylaws. In the recommended Act, "spheres of jurisdiction" are described within which, as long as there is no conflict with federal or provincial laws, a municipality has complete bylaw making powers.

In order to appreciate what is being proposed, it is necessary to forget two basic concepts of existing municipal law. Those concepts are that a municipality can only do those things an Act says it can do, and that bylaws can only be made if there is specific authority given in an Act to make the bylaw.

Under the recommended Act, however, a municipality would be able to do anything that falls within the powers of an individual or the spheres of bylaw-making authority subject to any limitations in legislation.

Because the Municipal Government Act is really a "people" act, the Committee directed its Legislative Planner to use a direct and understandable drafting style. The Committee expects that the Act will be able to be read and interpreted by a wide range of people with diverse interests. The need for precision in the law is appreciated by the Committee but that must be balanced with clarity in the way the Act is written.

The Committee understands that grappling with the concept of legislation which empowers but does not detail how the powers are to be exercised, is challenging, fraught with the

potential for misunderstanding, and requires a whole new understanding of the purpose of municipal legislation.

To be true to its terms of reference, however, "recommending legislation appropriate to Alberta municipal government ... into the 21st century", the Committee could do no less than creatively mix the imagination, fears and frustrations expressed in the countless submissions made to it into a NEW Municipal Government Act for Alberta.

In the words of one participant in a public forum conducted by the Minister's Advisory Council on the Local Development Initiative:

> *"Stop telling us what's best for us - recognize that local people know their own unique environment and their own particular needs. Watch over provincial interests (e.g. general resource management) but open doors to more autonomy in local issues."*

IN CONCLUSION

The Committee has already started the consultation process on a new Property Assessment Act. Responses to the Assessment Special Issues Paper indicated support for the establishment of an Alberta Assessment Authority and for generally providing for exemption of certain properties from taxation, rather than from assessment. The recommended Municipal Government Act, therefore, anticipates the Authority and includes taxation exemptions.

Many responses received to the Second Draft Legislation Papers made valuable suggestions on various drafting details and the general ordering of the Act, as well as commenting on policy provisions. In the recommended Act the Committee has attempted to reflect the general tone of the policy advice. The detailed comments will be provided to those responsible for the drafting of the actual Bill which will be introduced in the Legislative Assembly.

The Committee hopes that the trek from its inception to this recommendation has been as challenging and stimulating for those who have participated in the consultation process as it has been for the members.

RECOMMENDED

MUNICIPAL GOVERNMENT ACT

RECOMMENDED
MUNICIPAL GOVERNMENT ACT

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RECOMMENDED
MUNICIPAL GOVERNMENT ACT

(Enacting words)

PART 1

WHY DO WE HAVE THIS ACT?

1 What is the purpose of this Act?

The purpose of this Act is to establish a framework for efficient, effective, responsive and accountable municipal government that will

(a) enable necessary and desirable services and facilities to be provided to people and property, and

(b) enable the development of safe, viable and pleasing communities.

2 How is the Act organized?

(1) The Act is organized into 11 Parts as follows:

(a) **Part 1, "Why do we have this Act?"** describes the purpose of the Act and describes how it is organized. It also gives an overview of the contents of the rest of the Act;

(b) **Part 2, "What do I need to know before reading this Act?"** describes the basic rights, functions and duties of municipalities and how councils can carry them out;

(c) **Part 3, "How can I influence what my municipality does?"** describes what municipal information can be obtained, rules for presenting petitions and says how petitions and plebiscites can affect council decisions;

(d) **Part 4, "How is a municipality formed and reformed?"** has the following purposes:

- *to give the public a reasonable opportunity to participate in the incorporation and annexation process,*

- *to give municipalities and other local authorities an opportunity to comment on proposed municipal incorporation and annexation, and*

- *to provide an effective and efficient means of establishing municipal government entities in Alberta and, when necessary, of dissolving them;*

(e) Part 4 is divided into 3 Sub Parts:

(i) **Sub Part 1, "Establishing and changing municipalities"**, which describes the general rules for establishing and changing certain municipalities and the steps to be taken to incorporate them;

(ii) **Sub Part 2, "Annexation of land"**, which has the following purpose:

- *to provide ways of altering the boundaries of municipalities to ensure efficient and effective long range planning and responsive and accountable municipal government;*

(iii) **Sub Part 3, "Dissolution of municipalities and effect of incorporation, annexation and dissolution orders"**, which has the following purpose:

- *to dissolve municipalities when appropriate, and*

- *to deal with matters resulting from incorporation, dissolution and annexation in an efficient manner;*

(f) **Part 5, "How do councils work?"** which is divided into 3 Sub Parts:

(i) **Sub Part 1, "Establishment of councils, councillors, terms of office and wards"**, which has the following purpose:

- *to create councils*

  . *to govern municipalities, and*

  . *to provide necessary services and facilities to people and property,*

  balancing the interests of the municipality as a whole and the interests of individuals in the municipality;

(ii) **Sub Part 2, "Council proceedings"**, which has the following purpose:

- *to establish a framework for responsible decision making by councils;*

(iii) **Sub Part 3, "What happens if a councillor or a member of a councillor's family has a conflict of interest?"** which has the following purpose:

- *to ensure the integrity of councillors and guide them in their conduct if they or certain family members have a pecuniary interest in a matter before council and certain other bodies;*

(g) **Part 6, "What kind of things can a municipality do?"** which is divided into 3 Sub Parts:

(i) **Sub Part 1, "Spheres of jurisdiction"**, the purpose of which

- *is to give councils law making powers and describe their general jurisdiction, in addition to the rights, powers and privileges they have as a result of their incorporation;*

(ii) **Sub Part 2, "Municipal Administration";**

(iii) **Sub Part 3, "Limits on corporate activities of municipalities";**

(h) **Part 7, "Financial Administration"** which deals with municipal accounts, budgets, investments, borrowing, and annual financial statements and audits;

(i) **Part 8, "Municipal taxation"** which is deals with the various forms of municipal taxes that can be imposed by councils;

(j) **Part 9, "Liability of municipalities and enforcement of municipal law"** which is divided into

(i) **Division 1, "Legal liability of municipalities";**

(ii) **Division 2, "Liability of councillors and municipal officers";**

(iii) **Division 3, "Enforcement of municipal law";**

(iv) **Division 4, "Offences and penalties";**

(k) **Part 10, "What else is there to say?"** which is divided into

(i) **Division 1, "The Crown and regulation powers";**

(ii) **Division 2, "Other rules";**

(l) **Part 11, "Transitional provisions and consequential amendments"** describes the transition from former Acts to this one and describes some of the amendments that may be needed to other Acts.

(2) The Act has 5 Schedules, which are part of the Act:

(a) **Schedule 1, "Commonly used words and phrases in the Act";**

(b) **Schedule 2, "Local Governance Commission";**

(c) **Schedule 3, "Examples of how the Act works";**

(d) **Schedule 4, "Business Revitalization Zones";**

(e) **Schedule 5, "Model bylaw adopting a revision of bylaws"** .

PART 2

WHAT DO I NEED TO KNOW BEFORE READING THIS ACT?

3 Specially defined words and phrases

Some commonly used words and phrases in this recommended Act have special meanings. Schedule 1 sets out those special meanings.[1]

4 What functions, duties and powers do municipalities have?

Municipalities[2]

(a) have the rights, powers and privileges of an individual[3], except as they are modified or restricted by the corporate status of the municipality or by this or other enactments,[4]

(b) have the functions that are described in this and other enactments and those that the municipality decides for itself as a matter of policy,

(c) have the duties that are imposed on them by this and other enactments[5] and those that the municipality imposes on itself as a matter of policy, and

(d) have, through their councils, the power to make law by passing

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1 The Interpretation Act also defines words for use in Provincial legislation. Those definitions apply to this recommended Act unless the context of this draft otherwise requires.

2 The word "municipality" is defined in Schedule 1.

3 "individual" is used here in the sense of a single human being. Examples of "natural person powers" include the ability to make agreements, borrow money, buy, sell and rent land, buy other property, invest in securities and undertake any activity an ordinary person can undertake. The limits on these powers are described in the Act. There are prohibitions on some agreements, controls on spending and borrowing money, some conditions on buying and selling certain land and conditions on investing in securities.

Because a natural person cannot make law, councils are specifically authorized by this Act to do so. (See, for example, Part 6, s126.)

4 "enactments" means any Act of the Legislature or regulation made under an Act. (see s 28(1)(e) Interpretation Act)

5 For example, municipalities must pass budgets every year. Other Acts also impose duties on municipalities. For example the Planning Act requires every municipality to have a land use bylaw.

bylaws under this and other enactments.

5 Council's decision making

(1) The powers given to a municipality by this and other enactments can be exercised by

(a) its council, or

(b) the chief administrative officer and designated officers of the municipality.

(2) A council can only carry out its powers and duties

(a) by resolution or bylaw, but

(b) where this or another enactment requires a power or duty to be carried out by bylaw, it can only be carried out by bylaw.

6 Restrictions on delegation

(1) The only functions, duties and powers a council cannot delegate are

(a) its bylaw making powers,

(b) the adoption of operating and capital budgets,

(c) a decision to compromise, defer, cancel or refund municipal taxes under section 297, and

(d) a duty imposed on the council by this or another enactment to conduct public hearings.

(2) A duty to decide appeals imposed on a council by this or another enactment may be delegated generally or on a case by case basis if

(a) the delegation is to a council committee,[6] and

(b) the delegation is authorized by bylaw.

6 "council committee" is defined in Schedule 1 to include committees appointed by council composed of councillors only, a mixture of councillors and others, or persons who are not councillors.

7 Ultimate responsibility for municipal activities rests with council

Whether or not a function, power or duty is delegated, the council is responsible for making sure that

(a) the functions and duties of the municipality are carried out, and

(b) the powers of the municipality are appropriately exercised.

PART 3

HOW CAN I INFLUENCE WHAT MY MUNICIPALITY DOES?

Division 1

Access to information

8 Annual and public meetings

(1) Everyone is entitled to attend

(a) annual meetings called by the municipality to discuss the affairs of the municipality in the previous year, if an annual meeting is called, and

(b) public meetings called to discuss the affairs of the municipality.

(2) If an annual or other public meeting is called it must be advertised.[7]

9 What information must a municipality provide

(1) A municipality must

(a) provide information on the request of any person within a reasonable time, and

(b) allow copies of information to be taken on payment of a reasonable fee prescribed by bylaw,

unless there is a good reason for withholding the information.

(2) A chief administrative officer has good reason to withhold

(a) commercial information the disclosure of which would

(i) likely prejudice the commercial position of the person who

7 The rules for advertising public meetings are in section 146.

supplied it,

(ii) reveal a trade secret,

(iii) likely prejudice the municipality's ability to carry out its activities or negotiations, or

(iv) allow the information to be used for improper gain or advantage;

(b) information that is subject to obligations of confidence, the disclosure of which would

(i) likely prejudice the future supply of similar information or advice,

(ii) place councillors or employees of the municipality at risk of improper pressure or harassment,

(iii) breach legal professional privilege, or

(iv) prejudice measures protecting health and safety;

(c) personal information;

(d) information of a deliberative kind, and draft reports which are likely to be released to the public in a final form in due course;

(e) information the disclosure of which would prejudice the maintenance of the law;

(f) information on assessment rolls and tax rolls, except as provided in this or another enactment;

(g) information placed before an in camera meeting or an in camera council committee meeting, except when the information is placed before a public meeting;

(h) other information the disclosure of which would, in the opinion of the municipality, not be in the public interest.

(3) Despite subsection (2), a municipality may release information when public interest considerations outweigh a reason for withholding it.

10 Appeal about information disclosure decisions

(1) A written appeal can be made to council

(a) against a decision to withhold or release information under section 9, on the grounds that the reason for disclosure or non-disclosure was insufficient or wrong, or

(b) if no decision is received from the municipality by the applicant for information within a reasonable time from the date the request for information was received.

(2) Council's decision to withhold or release information is final.

11 How can I make a presentation at public hearings?

(1) If a public hearing is held on a proposed bylaw, resolution or other matter, council must hear

(a) any person, group of persons, or person representing them, who claim to be affected by the proposed bylaw, resolution or other matter and who has complied with the procedures outlined by the council, and

(b) any other person who wishes to make representations and whom council agrees to hear.

(2) After considering the representations made to it about a proposed bylaw or resolution at a public hearing and after considering any other matter it considers appropriate, the council may

(a) make any amendment it considers necessary to the bylaw or resolution, if any, and proceed to pass it, or

(b) defeat the proposed bylaw or resolution.

(3) The minutes of the regular or special meeting of the council during which a public hearing is held must record the public hearing to the extent directed by the council.

12 What can I do if there may have been wrongdoing in affairs of a municipality?

(1) The Attorney General may appoint a person to make an inquiry if

(a) electors equal in number to at least 10% of the population of a municipality request the Attorney General, or

(b) a council requests the Attorney General,

to hold an inquiry into a matter described in subsection (2).

(2) The inquiry, held at the expense of the municipality, may relate to

(a) the affairs of the municipality,

(b) the conduct of a councillor, or an employee or agent of the municipality, or

(c) the conduct of a person having an agreement with the municipality relating to the duties or obligations of the person under the agreement.

(3) The person appointed to make the inquiry

(a) must report to the Attorney General, the Minister and to the council, and

(b) has all the powers of a commissioner appointed under the *Public Inquiries Act*.

(4) The person appointed to make the inquiry is to be paid the fees and expenses agreed by the person and the municipality.

Division 2

Petitions

13 What are the rules for petitions?

(1) The rules for presenting petitions are stated in this Division and apply to all petitions under this and other enactments except when they are modified by this or the other enactment.

(2) When a petition is permitted or required under this or another enactment to be presented to a person other than a chief administrative officer, that other person must

(a) perform the functions, duties and powers of the chief administrative officer, or

(b) appoint another person to perform them.

(3) A petition is sufficient if

(a) it is required or permitted under this or another enactment and complies with their requirements, and

(b) it is declared to be sufficient in accordance with this Division.

(4) If a petition is not sufficient a council need not take any notice of it.

14 What can I petition about?

(1) An elector of a municipality can petition the council about

(a) any power, duty or function of the municipality referred to in this Act, except for the matters referred to in Part 7 (Financial Administration), Part 8 (Municipal Taxation) and Schedule 4 (Business Revitalization Zones), and

(b) anything under Parts 7, 8 and Schedule 4 when a bylaw is advertised in accordance with those Parts or the Schedule, or a petition is specifically permitted or required by their provisions.

(2) Certain taxpayers may petition

(a) the Local Governance Commission for an incorporation study to establish certain municipalities under section 35;

(b) a council, against the establishment of a Business Revitalization Zone under Schedule 2;

(c) a council, for or against a local improvement plan under Part 8, Division 6 (starting at section 262).

(3) Nothing in this section limits the right to petition given to a person by

this or another enactment.

15 How many petitioners are required?

(1) When a petition is permitted or required under this or another enactment it must be signed by the required number of petitioners.

(2) If the petition is not required to be signed by a minimum number of petitioners under other provisions of this or another enactment then, to be sufficient, the petition must be signed

(a) for a municipality having a population of less than 10,000 by electors equal in number to at least 10% of the population;

(b) for a municipality having a population of 10,000 or more but less than 100,000 by electors equal in number to at least the greater of

(i) 1000, or

(ii) 5% of the population;

(c) for a municipality having a population of 100,000 or more, by electors equal in number to at least the greater of

(i) 5000, or

(ii) 3% of the population.

16 Requirements for a petition

(1) A petition permitted or required under this or another enactment must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

(2) The petition must include, for each petitioner,

(a) the printed surname and printed given names or initials of the petitioner,

(b) the petitioner's signature,

(c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and

(d) the date on which the petitioner signs the petition.

(3) Each signature must be witnessed by an adult person who must

(a) sign opposite the signature of the petitioner, and

(b) take an affidavit that to the best of the person's knowledge the signatures witnessed are those of electors.

(4) Every petition must have attached to it a signed statement of a person stating that

(a) the person is the representative of the petitioners, and

(b) the municipality may direct any inquiries about the petition to the representative.

17 Counting petitioners

(1) Every petition must be filed with the chief administrative officer who must cause to be counted the number of petitioners who have signed the petition and otherwise determine whether it is sufficient.

(2) No name can be added to or removed from a petition after it has been filed with the municipality.

(3) In counting the number of petitioners on a petition there must be excluded the name of a person

(a) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,

(b) whose signature is not witnessed,

(c) whose street address or legal description of land or name is not included or is incorrect,

(d) when a petition is restricted to certain persons,

(i) who is not one of those persons, or

(ii) whose qualification as one of those persons is not, or is incorrectly, described or set out, or

(e) who signed the petition more than 60 days before the date on which the petition was filed with the chief administrative officer.

(4) If 5000 or more petitioners are necessary to make a petition sufficient a municipality may use a random statistical sampling method with a 95% confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

18 Report on sufficiency of petition

(1) Within 30 days of the date on which a petition is filed, the chief administrative officer must report to the council on whether the petition is sufficient or insufficient.

(2) A petition is deemed to be received by the council on the day the chief administrative officer reports to the council that the petition is sufficient.

19 Petition for public meeting

(1) Within 30 days after a council receives a sufficient petition requesting a public meeting, or a council meeting, the chief elected official must call a meeting to discuss the matters stated in the petition.

(2) Notice of the meeting must be advertised.

Division 3

Plebiscites on bylaws and resolutions

20 Petition to amend or repeal a bylaw or resolution

(1) A petition requesting an amendment or repeal of a bylaw or resolution has no effect unless it is filed with the municipality within 60 days after the day on which that bylaw or resolution is passed.

(2) Within 30 days of receiving a sufficient petition requesting an amendment or repeal of a bylaw or resolution the council must

(a) give 1st reading to a bylaw or table a motion dealing with the subject matter of the petition, and any other related matters the council considers necessary, and

(b) fix a date for a plebiscite on the proposed amendment or repeal of the bylaw or resolution within 30 days after the date on which the bylaw receives 1st reading or the resolution is tabled.

(3) Council need not conduct a plebiscite if the amendment or repeal of a bylaw or resolution requested by the petition is passed before the plebiscite is held.

21 2 or more bylaws or resolutions advertised at one time

When a council advertises 2 or more bylaws or resolutions in a single notice a separate petition must be filed with respect to each bylaw or resolution.

22 Petition to pass a new bylaw or resolution

(1) Within 30 days of receiving a sufficient petition requesting council to pass a new bylaw or new resolution the council must

(a) give 1st reading to a bylaw or table a motion dealing with the subject matter of the petition, and any other related matters the council considers necessary, and

(b) fix a date for a plebiscite on the bylaw or resolution within 30 days after the date on which the bylaw receives 1st reading or the resolution is tabled.

(2) Council need not conduct a plebiscite if the new bylaw or new resolution requested by the petition is passed before the plebiscite is held.

23 Delaying votes

(1) When

(a) a plebiscite of electors is to be held under this Act, and

(b) the date by which the plebiscite must be held is within 6 months of a general election,

on the request of a council, the Minister by order may direct that the plebiscite be held at the general election, in which case the plebiscite must be held on the date of the general election whether a general election is held or not.

(2) When

(a) a council wants to submit any question or matter to a plebiscite of the electors at a general election or by-election, other than a plebiscite referred to in subsection (1), but

(b) it becomes unnecessary to hold a general election or by-election,

the council may defer the plebiscite to the next general election or by-election or fix some other date for the plebiscite.

24 Conduct of the plebiscite

A plebiscite on a new bylaw or new resolution, or a plebiscite on an amendment or repeal of a bylaw or resolution, must be conducted in accordance with the *Local Authorities Election Act* but the notice of the vote must set out

(a) the text of the new bylaw or new resolution or amendment to the bylaw or resolution that is to be the subject of the plebiscite, or

(b) a reasonably complete description of the new bylaw or new resolution or the amendment to an existing bylaw or resolution, as the case requires.

25 Result of plebiscite

(1) If a majority of electors voting in a plebiscite vote in favour of a new bylaw or resolution, the bylaw or resolution as submitted to the vote must be passed by council within 30 days of the date of the vote, without any alteration affecting its substance.

(2) If a majority of electors voting in a plebiscite vote in favour of the repeal or amendment of an existing bylaw or resolution the council must amend or repeal the bylaw or resolution accordingly within 30 days of the date of the vote, without any alteration affecting the substance of the proposed amendment.

(3) If a majority of electors voting in a plebiscite

(a) oppose a proposed bylaw or proposed amendment to a bylaw, or the proposed repeal of a bylaw, council must not give the bylaw any further readings and all previous readings are rescinded, or

(b) oppose a proposed resolution or proposed amendment to a resolution or the proposed repeal of a resolution, the resolution is considered to have been defeated by council.

26 1 year moratorium on similar subject matter

If a plebiscite is held on a matter the council may refuse to receive any further petitions on a similar subject matter filed within one year of the date of the plebiscite.

27 Amendments or repeal of plebiscite bylaws and resolutions

(1) A council may amend or repeal a bylaw, provision of a bylaw, or a resolution that is passed in accordance with a plebiscite

(a) if the proposed amendment or repeal is advertised and 3 years have passed from the date of the plebiscite, or

(b) at any time, if the majority of the electors vote in a plebiscite in favour of the proposed amendment or repeal.

(2) A council may amend a bylaw or resolution passed in accordance with a plebiscite if the amendment does not affect the substance of the bylaw or resolution.

PART 4

HOW IS A MUNICIPALITY FORMED AND REFORMED?

28 Purpose of the Part

The purpose of this Part is

(a) to give the public a reasonable opportunity to participate in the incorporation and annexation process,

(b) to give municipalities and other local authorities[8] an opportunity to comment on proposed municipal incorporation and annexation, and

(c) to provide an effective and efficient means of establishing municipal government entities in Alberta and, when necessary, of dissolving them.

SUB PART 1

ESTABLISHING AND CHANGING MUNICIPALITIES

29 Purpose of this Sub Part

The purpose of this Sub Part is to set out the general rules for establishing and changing certain municipalities and the steps to be taken to incorporate them.

30 Ministerial guidance

The Minister may establish and publish principles, standards and criteria about the viability of municipalities in order to guide consideration of the incorporation, dissolution, amalgamation and changes to the boundaries and status of municipalities.

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8 The words "local authorities" are deliberately left undefined. It is not intended that there be any limit on the kinds of local authorities commenting on proposed municipal incorporations.

31 Municipal agreements about boundaries

When 2 or more municipalities make an agreement about their common boundaries, the Local Governance Commission must be guided by the agreement if it is asked to make a report on their common boundaries.

Division 1

Establishing municipalities

32 What kinds of municipality can be established under this Act?

The following municipalities can be established under this Act:

(a) a municipal district;

(b) a village;

(c) a summer village;

(d) a town;

(e) a city;

(f) a specialized municipality, being a combination of the municipalities described in this section, a modification of them or a new form of municipality given a status appropriate to its form.[9]

33 What are the general rules for municipal incorporation under this Act?

(1) In order to establish viable municipalities that are capable of generating local leadership and providing and paying for necessary and desirable facilities and services, as a general rule

(a) a municipal district can be established for an area in which

9 Other forms of municipality can be incorporated or established under other legislation. For example, counties are established under the Counties Act; a town under the Park Towns Act; improvement districts under the Improvement Districts Act and special areas under the Special Areas Act.

(i) a majority of the buildings[10] in the area are on parcels of land of 1850 square metres or larger, and

(ii) there is a population of 1000 or more;

(b) a summer village can be established for an area in which, at the time the petition is presented, or the request is made,[11]

(i) there are 60 separate buildings that have been occupied as dwellings at any time in the 6 months preceding the date on which incorporation proceedings were initiated under this Part,

(ii) a majority of the inhabitants of the area do not permanently reside in the proposed summer village, and

(iii) there is a population of less than 300;

(c) a village can be established for an area in which

(i) there is a population of 300 or more, and

(ii) a majority of buildings in the area are on parcels of land smaller than 1850 square meters;

(d) a town can be established for an area in which

(i) a majority of buildings in the area are on parcels of land smaller than 1850 square metres, and

(ii) there is a population of 1000 or more;

(e) a city can be established for an area in which

(i) a majority of buildings in the area are on parcels of land smaller than 1850 square metres, and

(ii) there is a population of 10,000 or more.

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10 "Buildings" here means <u>any</u> buildings. Contrast it with "buildings that have been occupied as dwellings at any time . . ." in clause (b)(i).

11 See s35(3).

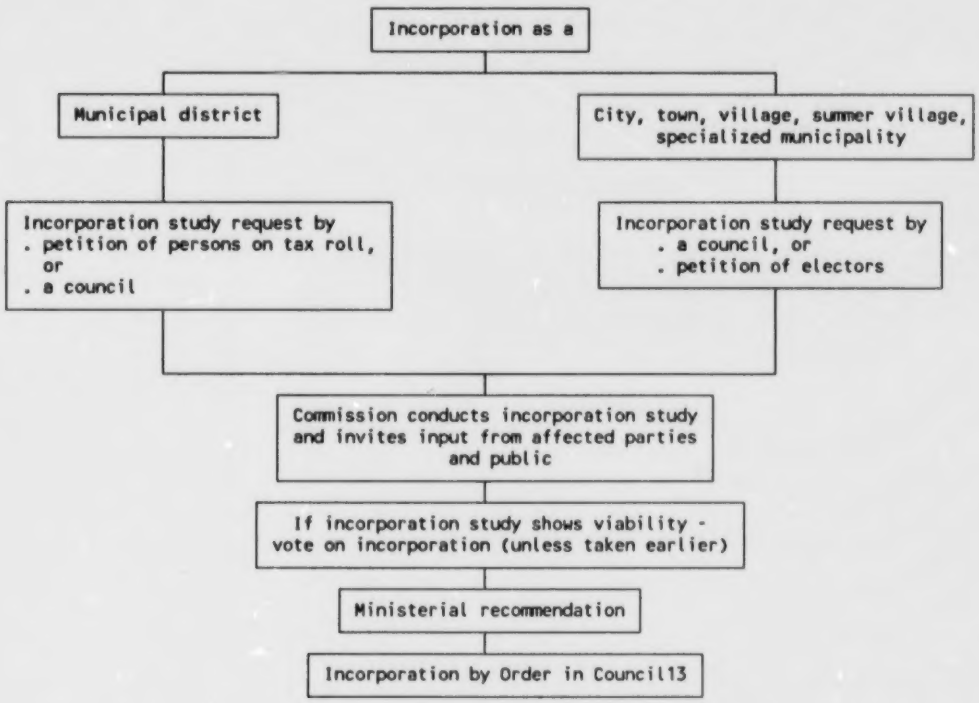
(2) The general rules for incorporation can be modified by the Minister only when there is, in the Minister's opinion, a justifiable reason for doing so.

(3) References later in this Sub Part to the "general rules for incorporation" means the general rules described in subsection (1) as they are modified, if at all, by the Minister for what is in the Minister's opinion a justifiable reason.[12]

34 Steps to municipal incorporation

The usual process for municipal incorporation under this Act follows these steps (which are described in more detail in the sections which follow):

12 A "justifiable reason" could include situations where the population does not quite reach the required level but it is clear that it will in the near future.


Incorporation as a
Municipal district
City, town, village, summer village, specialized municipality
Incorporation study request by
. petition of persons on tax roll, or
. a council
Incorporation study request by
. a council, or
. petition of electors
Commission conducts incorporation study and invites input from affected parties and public
If incorporation study shows viability - vote on incorporation (unless taken earlier)
Ministerial recommendation
Incorporation by Order in Council13

Division 2

Incorporation study

35 Request for incorporation study

(1) An incorporation study request for a summer village can be made to the Local Governance Commission

(a) by a majority of the persons whose names are on the tax roll of land inside the boundaries of the proposed summer village sending a petition to the Commission, or

(b) by a council.

(2) An incorporation study request for a municipal district can be made

13 For incorporation as a specialized municipality (see sections 38(2) and 39(4)).

to the Local Governance Commission[14]

(a) by a majority of the persons whose names are on the tax roll of land inside the boundaries of the proposed municipal district sending a petition[15] to the Commission, or

(b) by a council.

(3) An incorporation study request for a city, town, village or specialized municipality may be made to the Local Governance Commission

(a) by a petition of electors numbering at least 30% of the population resident inside the boundaries of the proposed city, town, village or specialized municipality, or

(b) by a council.

36 Authorization for incorporation study

(1) If the Local Governance Commission is satisfied that the general rules for incorporation[16] of a proposed municipality are met, or that there are circumstances which make incorporation as a specialized form of municipality desirable, the Commission may undertake an incorporation study including

(a) an evaluation of the financial viability of the proposed municipality,

(b) the probable impact of the incorporation on existing municipalities and school authorities,

(c) the overall viability of

(i) the proposed municipality operating as a separate entity,

14 The Local Governance Commission is established under Schedule 2 of this Act.

15 The rules for submitting petitions start at section 13. If this recommendation is accepted some modification of the petitioning rules may be needed to accommodate petitions made to the Commission.

16 The "general rules for incorporation" are described in section 33.

(ii) any municipality remaining after incorporation to continue to operate as a separate entity,

(d) consideration of sound land use planning principles as they relate to the proposal, and

(e) any other issues directed by the Minister.

(2) During the incorporation study

(a) all municipalities, school and other local authorities in the proposed geographic area of the municipality must be invited to comment on the study,

(b) comments from the public must be invited,

(c) at least one public meeting must be held to discuss the implications of the study, at which time a vote on the proposed incorporation can be taken,

(d) any other issues included in the guidelines for incorporation of municipalities prescribed by the Minister, and any agreement described in section 31 must be considered, and

(e) the name proposed for the municipality must be checked to make sure that the *Historical Resources Act*[17] is complied with.

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17 See s14 of the Historical Resources Act which reads:

14(1) The name of any place or other geographical feature in Alberta that

(a) was approved after March 31, 1949 and before January 1, 1975 by the Geographic Board of Alberta under the Geographical Names Act, or

(b) is approved or changed after December 31, 1974 by the Historic Sites Board pursuant to subsection (2),

is the authorized name of that place or feature for all purposes.

(2) The Board may, with the consent of the Minister, approve a name for, or approve a change of the name for, any place or other geographical feature in Alberta.

(3) When the Board approves the name or changes the name of any place or other geographical feature under this section, a notice signed by the secretary of the Board setting out the name approved or the change of name and the location of the place or other geographical feature to which the name applies, shall be published by the secretary in The Alberta Gazette.

(4) The Minister may make regulations

(a) prescribing standards and guidelines for the approval of names and changes of names by the Board;

(b) prescribing the duties of the Board with respect to nomenclature;

(c) governing and requiring consultation by the Board with any department, municipality, person or body of persons concerning the naming of, or the changing of the name of, any place or other geographical feature.

(3) The Local Governance Commission must send its incorporation report to the Minister and to the municipalities and school authorities affected by the study.

(4) The Minister may decide who is to pay the cost of an incorporation study.

37 Vote on incorporation

(1) If the incorporation study

(a) shows that the proposed municipality and any remaining municipalities would be viable, and

(b) is otherwise satisfactory to the Minister,

the Minister must hold a vote of those persons who would be electors in the proposed municipality if it was incorporated, unless subsection (3) applies.

(2) The vote must be held

(a) in accordance with the *Local Authorities Election Act*, or

(b) if in the opinion of the Minister the procedure of that Act should be modified, in accordance with the Act as modified by directions issued by the Minister.

(3) A vote on the incorporation question need not be held if the Minister is satisfied that the vote taken at a public meeting conducted during the incorporation study fairly represents the opinion of the persons affected by the study.

(4) The *Regulations Act* does not apply to directions issued by the Minister under subsection (2).

Division 3

Incorporation of municipalities

38 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council that a city, town, village, summer village or municipal district be established after considering

(a) the incorporation study,

(b) the vote on the incorporation question,

(c) whether the general rules for incorporating a municipality under this Act are met, and

(d) any other matter the Minister considers appropriate.

(2) The Minister may recommend to the Lieutenant Governor in Council that a specialized municipality be established after considering

(a) the incorporation study,

(b) the vote on the incorporation question, and

(c) any circumstances which make incorporation as a specialized form of municipal government desirable.

39 Incorporation by order in council

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may incorporate a city, town, village, summer village, municipal district or a specialized municipality.

(2) The incorporation order[18] must

(a) describe the boundaries of the municipality,

18 The incorporation order can also deal with taxation, assessment election and other matters under section 40.

(b) give the municipality the status of "city", "town", "village", "summer village", "municipal district", or a specialized status described in the order, and

(c) give the municipality an official name and may authorize the municipality to use a variation of its official name.

(3) When a municipal district is incorporated, the Minister must

(a) state the number of councillors on its council, and

(b) describe the wards in the municipal district.

(4) When a specialized municipality is incorporated

(a) the Minister may

(i) state the number of councillors on its council, and

(ii) describe the wards in the municipality, if wards are required, and

(b) the Lieutenant Governor in Council may do all or any of the following:

(i) specify, or describe by reference, the provisions of this or other enactments that do not apply to the specialized municipality, or that apply with or without modification;

(ii) specify, or describe by reference, any provisions which are to be added to or replace the provisions of this or other enactments;

(iii) prescribe matters or conditions which govern the functions, powers and duties of the specialized municipality.

40 Consequential matters following incorporation

(1) The Lieutenant Governor in Council may, in the order incorporating a municipality or subsequently, make any provision necessary about the newly incorporated municipality or the municipality from which it

was formed respecting

(a) assessment or taxation of land;

(b) any matter required to properly effect or deal with the incorporation, or matters resulting from it, transitional or otherwise;

(c) the retroactive or prospective application of all or any provision of the order, despite this or other enactments;

(d) the addition, change or substitution of any provision of this or other enactments to give effect to the order or deal with a difficulty arising from the order or the application of this or other enactments to the incorporation or matters resulting from it.

(2) When an order incorporating a municipality has been made by the Lieutenant Governor in Council, the Minister may

(a) direct the transfer of assets, liabilities, rights and interests from one municipality to another as the case requires, and

(b) direct that elections be held in the newly incorporated municipality.

41 Effect of incorporation

(1) On the effective date of the Lieutenant Governor in Council's order of incorporation, a municipality

(a) becomes a corporation with all the rights, powers and privileges of an individual, except as they are modified or restricted by its corporate status or by this or other enactments, and

(b) has the functions, duties and powers of a municipality under this and other enactments.

(2) An incorporated municipality is composed of its electors.

42 Amendments to incorporation order

On the recommendation of the Minister, the Lieutenant Governor in Council may amend any provision of an order incorporating a municipality under this or a predecessor enactment, or an order made as a consequence of the incorporation.

43 Summer villages

(1) All the provisions of this or other enactments that apply to villages apply to summer villages, except that in a summer village,

(a) the organizational meeting of the council must be held not later than August 31 in any year, and

(b) a reference in this Act to "population" as it relates to a petition is a reference to the total number of persons eligible to vote at an election in the summer village.

(2) If it appears to the Minister to be difficult or impossible to apply the provisions of this or other enactments to one or more summer villages, the Minister may decide any question arising through the difficulty or impossibility, and make a direction or, if necessary, make regulations to deal with the matter.

44 Boundaries

(1) When part of the boundary of a municipality is described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, the boundary is the side of the road allowance on which monuments or posts are placed under any survey

(a) except in the case of correction lines, when the south side of the road allowance is the boundary, or

(b) unless the description otherwise specifies.

(2) When a road is the boundary of a municipality and land is acquired to widen it, the land acquired is within the boundaries of the municipality.

(3) A road allowance between an Indian Reserve and a municipality is in the municipality, despite anything to the contrary in this section.

(4) When the boundary of a municipality is wholly or partly described by a river, the right bank of the river facing downstream is the boundary, unless the description otherwise specifies.

(5) In subsection (1) "***survey***" and "***surveyed land***" mean a survey made under the *Surveys Act* or the *Canada Lands Surveys Act*.

Division 4

Change of status

45 Ministerial recommendation

On receipt of a report from the Local Governance Commission the Minister may recommend to the Lieutenant Governor in Council that the status of a city, town, village, summer village, municipal district or specialized municipality be changed if the Minister is satisfied that the municipality meets the general rules for incorporation of its proposed status, or circumstances exist requiring it to become a specialized municipality and

(a) if

(i) a majority of the electors in the municipality want the change, or

(ii) the municipality no longer meets the general rules for its incorporation, or if the reasons for incorporating a specialized municipality no longer exist, or

(b) if

(i) the council requests the Minister to make a recommendation, or

(ii) the Minister has told the council that the Minister intends to recommend another status for it.

46 Order changing status

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may change the status of a municipality.

(2) The Lieutenant Governor in Council may, in an order under subsection (1) or in a subsequent order, make the same orders that can be made under sections 39 and 40.

SUB PART 2

ANNEXATION OF LAND

47 Purpose of this Sub Part

The purpose of this Sub Part is to provide ways of altering the boundaries of municipalities to ensure efficient and effective long range planning and responsive and accountable municipal government.

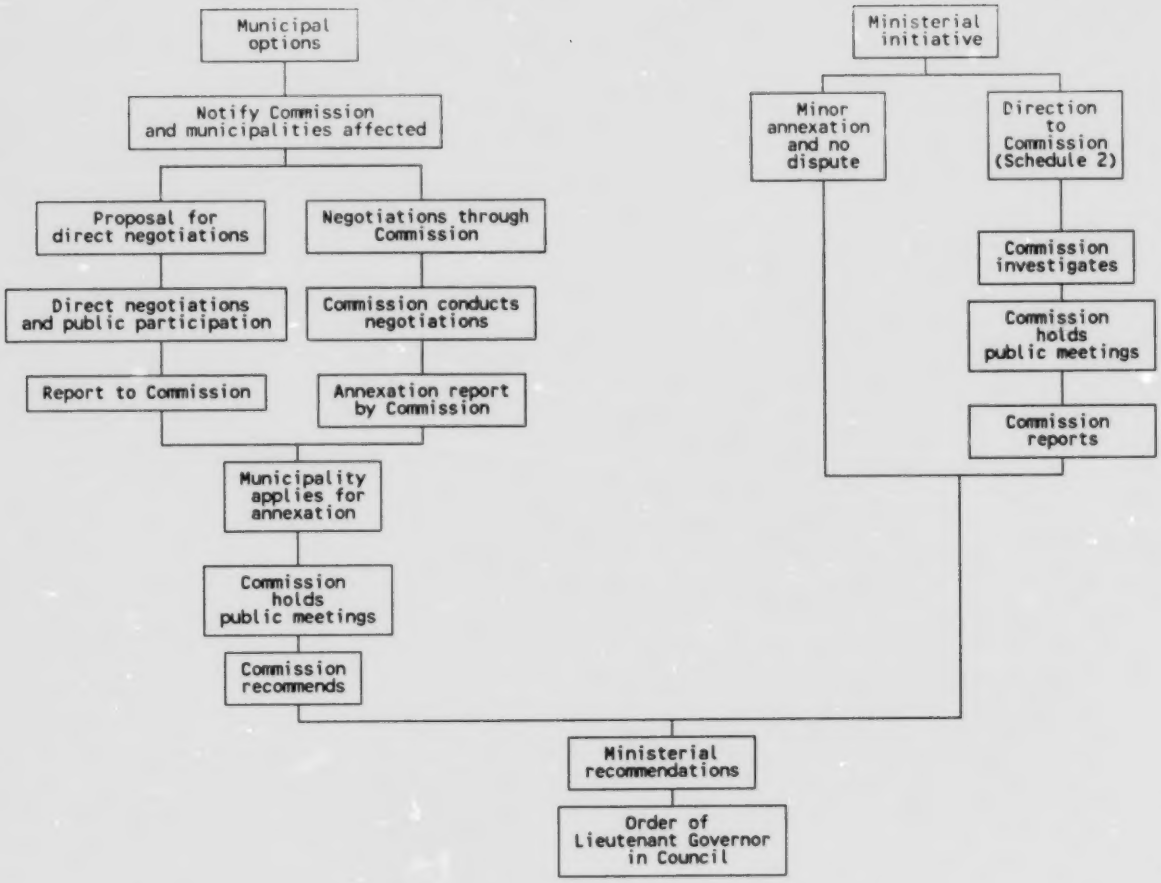
Division 1

Annexation process

48 Steps in annexation proceedings[19]

Annexation of land from one municipality to another occurs in one of the ways illustrated below (which are subsequently described in more detail in this Sub Part):

19 Under sections 120 to 122 of the *Local Authorities Board Act* owners of land in an urban municipality can apply to the Local Authorities Board to have their land removed from the urban municipality.


Municipal options
Notify Commission and municipalities affected
Proposal for direct negotiations
Negotiations through Commission
Direct negotiations and public participation
Commission conducts negotiations
Report to Commission
Annexation report by Commission
Municipality applies for annexation
Commission holds public meetings
Commission recommends
Ministerial initiative
Minor annexation and no dispute
Direction to Commission (Schedule 2)
Commission investigates
Commission holds public meetings
Commission reports
Ministerial recommendations
Order of Lieutenant Governor in Council

49 Proposal for annexation proceedings

(1) Annexation proceedings by a council must be started by a municipality giving written notice of its proposal to apply to annex land to

(a) the one or more other municipalities affected, and

(b) the Local Governance Commission.

(2) The notice must state whether the initiating municipality wishes

(a) to negotiate the annexation of land directly with the one or more other municipalities affected, or

(b) the Commission to convene negotiations.

(3) The notice must include

(a) a description of the land affected by the proposal, and

(b) the reason for the proposal.

(4) If the notice proposes direct negotiations then it must also include suggestions for public notice, meetings with the owners of the land affected, and proposals for keeping the owners informed about the progress of negotiations.

(5) A copy of a notice under this section must be given to every school and other local authority and to the regional planning commission, if any, within whose boundaries the land proposed to be annexed is located.

(6) A municipality cannot start or proceed with more than one annexation procedure at any one time concerning the same land but may abandon direct negotiation in favour of asking the Commission to convene negotiations.[20]

50 Direct negotiations in good faith

(1) After receipt of a notice proposing direct negotiations about annexation, the municipalities concerned must meet to discuss the proposal and

20 Direct negotiations are started by a notice under section 49(2)(a) and continued under section 50. A request for the Commission to convene negotiations must be given under section 49(2)(b).

negotiate in good faith.

(2) If a municipality does not meet or negotiate the proposal in good faith with any other municipality, the municipality seeking to meet or negotiate may ask the Local Governance Commission to take over as convenor of the portion of the negotiations affecting it, and the Commission must do so.

(3) The municipality initiating the annexation must keep the Commission informed of the progress of negotiations.

51 After negotiations

(1) After direct negotiations, hearings and meetings are over the affected municipalities must complete a negotiation report that

(a) describes the public consultation process involved in the preparation of the report,

(b) describes the result of negotiations between the initiating municipality and other affected municipalities,

(c) lists the matters agreed to by the municipalities,

(d) lists the matters on which there is no agreement between the municipalities, and

(e) summarises the views of the public expressed in the public consultation process.

(2) The negotiation report must be

(a) signed by all the municipalities, or

(b) certified by the initiating municipality as an accurate statement of its contents explaining why, in its opinion, other municipalities have not signed it.

52 Paying for the negotiation report

(1) If the municipalities cannot agree on who is to pay for all or a proportion of the negotiation report any of them may apply to the Local Governance

Commission to decide the matter and its decision is binding.

(2) In making its decision the Local Governance Commission must take into account the actions of the municipalities during negotiations.

53 The next step

(1) After a negotiation report is finished the municipality initiating the direct negotiations for annexation must submit the report to the Local Governance Commission and provide a copy to the municipalities, school authorities and regional planning commission affected.

(2) The Commission must review the negotiation report to ensure that any principles for annexation prescribed by the Minister have been followed.

Division 2

Hearings, recommendations and decisions

54 Annexation application to Local Governance Commission

(1) If the notice under section 49 requests the Local Governance Commission to convene negotiations, the Commission must do so.

(2) Following completion of the negotiations the Local Governance Commission must issue an annexation report.

55 Annexation hearing and recommendations

(1) After the Local Governance Commission receives a negotiation report, or issues an annexation report, the Commission must ask the initiating municipality if it wishes to apply for annexation.

(2) If the initiating municipality makes an application, the Commission must hold one or more public meetings in the area affected by the proposal.

(3) After considering any representations made at a public meeting, and previous reports, negotiation reports and representations made to it, the Commission must report to the Minister and the report

(a) must recommend whether or not land should be annexed to the boundaries of a municipality,

(b) may include recommended terms and conditions, and

(c) may recommend any matters necessary or desirable to implement its recommendations,

and the Commission must provide a copy of its report to the municipalities affected.

56 Ministerial recommendation

(1) The Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality on any terms and conditions considered appropriate after receiving a report from the Local Governance Commission.

(2) In preparing recommendations, the Minister is to be guided by the report of the Local Governance Commission, but if the Minister proposes to make substantially different recommendations from those in the Commission's report the Minister must inform the affected municipalities of the reasons for doing so before making recommendations to the Lieutenant Governor in Council.

57 Minor annexations

If an annexation is, in the Minister's opinion, of a minor nature and there is no dispute about it, the Minister may recommend to the Lieutenant Governor in Council that land be annexed to a municipality at any time.

58 Annexation order

On the recommendation of the Minister, the Lieutenant Governor in Council may

(a) annex land to a municipality;

(b) for the purpose of phasing in the effects of an annexation order, require a municipality, for the period of time stated in the order,

(i) to share its revenue with another municipality, or

(ii) to share in paying the costs of another municipality;

(c) require the annexed land to be assessed on any basis or principle of assessment for any period considered appropriate;

(d) deal with any of the matters referred to in sections 39 and 40;

(e) impose other terms or conditions considered necessary dealing with incorporation and consequential matters following incorporation.[21]

SUB PART 3

DISSOLUTION OF MUNICIPALITIES AND EFFECT OF INCORPORATION, ANNEXATION AND DISSOLUTION ORDERS

59 Purpose of this Sub Part

The purpose of this Sub Part is to provide a means

(a) to dissolve municipalities, when appropriate, and

(b) to deal with matters resulting from incorporation, dissolution and annexation in an efficient manner.

Division 1

Dissolution

60 Ministerial recommendation

(1) Upon receipt of a report from the Local Governance Commission the Minister may recommend to the Lieutenant Governor in Council that a city, town, village, summer village, specialized municipality or municipal

21 For example, provisions about assessment, election and taxation matters.

district be dissolved if

(a) the municipality is unable to balance municipal revenues with required municipal expenditures,

(b) the municipality ceases to meet the general rules for its incorporation, or

(c) a council has not been elected.

61 Dissolution order

(1) On the recommendation of the Minister, the Lieutenant Governor in Council may dissolve a city, town, village, summer village, specialized municipality or municipal district.

(2) An order of dissolution may

(a) transfer land from the administration of the dissolved municipality to another municipality;

(b) make orders to deal with, dispose of, or transfer, assets, liabilities, taxes and agreements, or direct the Minister to do so;

(c) decide other matters when they are not or cannot be dealt with in accordance with this Part;

(d) deal with all or any of the matters referred to in sections 39 and 40.

62 Assets and liabilities of dissolved municipalities

(1) If the liabilities of a dissolved municipality are more than its assets the Minister may authorize the successor of the dissolved municipality to impose a tax on the land previously in the former municipality to pay for the liabilities.

(2) A tax imposed under subsection (1) is, for the purposes of Part 8 (Municipal taxation), a special tax.

Division 2

Effect of incorporation, dissolution and annexation orders

63 Effect of transfer of administration or annexation of land[22]

(1) When an order under this Part incorporates a municipality, annexes land or transfers the administration of land from one municipality (the "old municipality") to another (the "new municipality"), unless the order otherwise directs,

(a) the new municipality, with respect to the land affected by the order, becomes the successor of the old municipality in all respects;

(b) taxes due with respect to the land affected by the order and remedies for their collection pass to the new municipality, and on collection must be paid to the old municipality, unless the old municipality is completely dissolved in which case the taxes collected are to be retained by the new municipality;

(c) land affected by the order that is designated or required to be provided as a public utility parcel, environmental reserve, municipal reserve or municipal and school reserve under the Planning Act becomes vested in the new municipality in place of the old municipality;

(d) on the effective date of the order, the old municipality ceases to have any authority with respect to the land affected by the order;

(e) bylaws and resolutions of the old municipality that apply specifically to the land affected by the order continue to apply to it until they are repealed or others are made in their place by the new municipality.

(2) If the whole of the old municipality forms the whole of the new municipality

(a) the councillors of the old municipality continue as the councillors

22 The effect of transfer of administration or annexation orders on supply contracts, franchises and exclusive use agreements is dealt with starting at section 171.

of the new municipality until their successors are sworn into office, and

(b) bylaws and resolutions of the old municipality continue as bylaws and resolutions of the new municipality until they are repealed or others are made in their place by the new municipality.

(3) Nothing in this section prejudices the rights of debenture holders.

(4) An order under this Part may also

(a) authorize the council of the new municipality to levy a special tax on the land transferred or annexed to meet debentures issued by the old municipality in respect of that land;

(b) deal with and make any provision necessary to protect the rights of any person in the land transferred or annexed;

(c) direct the transfer of assets and liabilities from one municipality to another.

(5) This section does not apply to agreements, franchises and rights described in sections 171 to 179.[23]

64 Transfer land and property ownership

When an order under this Part requires the ownership of land or property to be transferred to a municipality the Minister may do whatever is necessary to effect the transfer.

65 Regulations Act not to apply

The *Regulations Act* does not apply to an order of the Lieutenant Governor in Council or the Minister made under this Part.

23 These sections deal with exclusive franchises, rights and supply agreements for rural gas utilities.

66 Orders published

(1) An order of the Lieutenant Governor in Council and the Minister under this Part must be published in the Alberta Gazette.

(2) Publication of an order of

(a) the Lieutenant Governor in Council, or

(b) the Minister,

made under this Part is conclusive proof of the fulfilment of the conditions precedent to the Ministerial recommendation and conditions precedent to the Lieutenant Governor in Council's order.

PART 5

HOW DO COUNCILS WORK?

SUB PART 1

ESTABLISHMENT OF COUNCILS, COUNCILLORS, TERMS OF OFFICE AND WARDS

67 Purpose of this Sub Part

The purpose of this Sub Part is to create councils

(a) to govern municipalities, and

(b) to provide necessary services and facilities to people and property,

balancing the interests of the municipality as a whole and the interests of individuals in the municipality.

68 Summary of the composition of councils

The following table summarizes the composition of councils and the options available to municipalities.

	City/town	Village	Summer Village	Municipal district	Specialized municipality
Number of councillors	7 (unless greater 'odd' number prescribed by bylaw)	3 (unless '5' is prescribed by bylaw)	3 (unless '5' is prescribed by bylaw)	Whatever municipal incorporation order says (unless bylaw increases or decreases it to an 'odd' number)	Depends on incorporation order
chief elected official	Elected by vote of electors of whole municipality for 3 year term unless bylaw passed saying: . council appoints ceo from amongst themselves . when the appointment takes place, and . how long the ceo holds office	Appointed by council from among themselves unless bylaw passed saying: . election by whole municipality	Appointed by council from among themselves unless bylaw passed saying: . election by whole municipality	Appointed by council from among themselves unless bylaw passed saying: . election by whole municipality	Depends on incorporation order
other councillors	Elected by vote of electors of whole municipality unless there is a ward system in place	Same as city/town	Same as city/town	Same as city/town	Same as city/town

Division 1

Establishment of councils and duties of councillors

69 Establishment of councils

(1) Councils are established by this section as the governing body for each city, town, village, summer village, municipal district and specialized municipality.

(2) A council is a continuing body.

70 Composition of council

(1) Each council is composed of

(a) a chief elected official, and

(b) other councillors.

(2) The chief elected official is a councillor, irrespective of the way in which the chief elected official assumes office.[24]

71 Responsibilities of councillors

It is the responsibility of councillors

(a) to consider the welfare of the municipality as a whole;

(b) to develop and evaluate the policies and programs of the municipality;

(c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;

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24 The chief elected official can be elected at large, by a vote of all electors of the municipality, or he or she can be appointed by the councillors from amongst themselves. The chief elected official is also a councillor, whichever way he or she gets into office.

(d) to bring to council's attention anything that would promote the welfare or interests of the municipality;

(e) to bring to the attention of the chief elected official a concern about the way in which the administrative staff of the municipality carry out their responsibilities;

(f) to obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer;

(g) to keep in confidence matters discussed in camera at council meetings, or discussed in camera at council committee meetings, until the matter is discussed at a public meeting;

(h) to perform any other duty or responsibility given or imposed on councillors by this or other enactments or by bylaw.

72 Title of councillors and chief elected official

A council may direct that

(a) its councillors are to be known by a title other than "councillor";

(b) its chief elected official is to be known as "mayor", "reeve" or other title.

Division 2

Composition of councils

73 Councillors on municipal district councils

(1) Municipal district councils consist of the number of councillors stated in the incorporation order of the municipal district, unless council passes a bylaw under subsection (2).

(2) A municipal district council may pass a bylaw specifying a greater or lesser number of councillors to constitute its council than the number specified in the incorporation order, but in order to facilitate decision making the number must be an odd number.

74 Councillors on village and summer village councils

Village councils and summer village councils consist of

(a) 3 councillors, or

(b) 5 councillors if the council passes a bylaw to that effect.

75 Councillors of cities and towns

(1) City councils and town councils consist of 7 councillors unless council passes a bylaw under subsection (2).

(2) A city council or town council may pass a bylaw specifying a greater number of councillors to constitute its council, but in order to facilitate decision making the number must be an odd number.

76 Election of councillors

(1) A chief elected official must be elected in accordance with the *Local Authorities Election Act* and Division 4 (starting at section 80).

(2) Other councillors must be elected in accordance with the *Local Authorities Election Act* by the vote of the electors of the whole municipality unless there is a ward system in place in the municipality.

77 Bylaws changing the number of councillors on council

A bylaw changing the number of councillors on council

(a) must be passed at least 180 days before the general election at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election after the date on which it is passed,

and stays in effect for subsequent general elections, until it is amended or repealed.

78 Insufficient numbers of councillors

(1) If at a general election councillors are not elected to fill all the positions on council, the Minister may

(a) fill the vacancies by appointing one or more persons as councillors, or

(b) order that the councillors who have been elected constitute a quorum,

until the vacancies are filled by an election.

(2) The Minister may, as the circumstances require, direct that a by-election be held to fill vacancies on council.

Division 3

A ward system of elections

79 Ward system

(1) A council may pass a bylaw to

(a) divide the municipality into wards, and

(b) establish or alter the boundaries of wards.

(2) The number of councillors to be elected by the electors of each ward must be determined in such a way that the population represented by a councillor is not more than 25% above nor more than 25% below the average population represented by all the councillors, unless a bylaw has been passed under section 47 of the *Local Authorities Election Act*.

(3) If a council finds it difficult or impossible to establish a ward system described in subsection (2), the council may pass a bylaw establishing a modified ward system, but the bylaw, and any subsequent amendment to it, has no effect unless it is approved by the Minister.

(4) A bylaw establishing a ward system must

(a) give each ward a name or number, or both, and

(b) state the number of councillors to be elected by the electors of each ward.

(5) A bylaw under this section

(a) must be made, amended or repealed at least 180 days before the date of the general election at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election after the date on which it is passed,

and stays in effect for subsequent general elections, until it is amended or repealed.

Division 4

Chief elected officials and their deputies

80 Duties of chief elected official

(1) A chief elected official has the following responsibilities

(a) to preside at meetings of council whenever the chief elected official attends a council meeting, unless a bylaw otherwise provides,[25]

(b) to bring to the attention of an in camera council meeting or an in camera council committee meeting a concern about the way in which the chief administrative officer carries out a function, duty or power of that office, and

(c) to bring to the attention of the chief administrative officer a concern about the way in which administrative staff of the municipality carry out their functions, duties or powers.

(2) As a councillor, the chief elected official must also fulfil the responsibilities of a councillor.

25 Bylaws could provide that a non-councillor be appointed as non-voting 'speaker' to run council meetings. This would free the chief elected official to participate in debate without being constrained by having to chair the meeting.

(3) The chief elected official, by virtue of office,

(a) is a member of all council committees and all bodies to which the council has the right to appoint members under this Act, and

(b) has a right to vote at meetings of those entities.

81 Election of chief elected official of cities and towns

(1) Chief elected officials of cities and towns must be elected by a vote of the electors of the whole municipality unless the council passes a bylaw authorizing the council to appoint the chief elected official from among themselves.

(2) If a bylaw is passed to appoint a chief elected official from among councillors it must also state

(a) when the appointment for chief elected official must take place, and

(b) how long the successful councillor holds office as chief elected official, which cannot be longer than the councillor's term of office.

82 Election of chief elected official of villages, summer villages and municipal districts

(1) Chief elected officials of villages, summer villages and municipal districts must be appointed by the council from amongst themselves unless the council passes a bylaw saying that the chief elected official must be elected by the electors of the whole municipality.

(2) Chief elected officials who are appointed must be appointed annually at the organizational meeting of the council unless the council, by bylaw, prescribes a longer term of office, which cannot be longer than the councillor's term of office.

83 Changing the way in which the chief elected official is chosen

(1) A bylaw which changes the way in which a chief elected official is elected or appointed

(a) must be passed at least 180 days before the date of the general election or organizational meeting at which it is to take effect, but

(b) if the bylaw is not passed in time, takes effect at the 2nd general election or 2nd organizational meeting after the date on which it is passed and stays in effect until it is amended or repealed.

(2) A bylaw under subsection (1), and an amendment to or repeal of the bylaw, must be advertised.

84 Deputy chief elected official

(1) At its annual organizational meeting a council must appoint one or more of their number as deputy chief elected official so that

(a) only one councillor holds office as deputy chief elected official at any time, and

(b) the office of deputy chief elected official is filled all the time.

(2) The council may appoint an acting chief elected official from among themselves to perform the duties of the office of chief elected official

(a) when both the chief elected official and the deputy chief elected official are unable to perform the duties of the office, or

(b) if both acting and deputy offices are vacant.

85 Oath of office

(1) The following officials

(a) chief elected official,

(b) deputy chief elected official,

(c) acting chief elected official, and

(d) councillor,

must take and sign the official oath or affirmation prescribed by the

Oaths of Office Act,[26] but the oaths or affirmations for the various offices may be combined.

(2) The signed oath or affirmation must be retained by a designated officer with the official records of the municipality.

Division 5

Terms of office

86 3 year terms

A councillor elected at a general election holds office for 3 years

(a) starting at the beginning of the organizational meeting following the general election, and

(b) ending immediately before the beginning of the organizational meeting following the next general election, unless the office becomes vacant earlier.

87 Terms of office after a by-election

A councillor elected at a by-election holds office for a period

(a) starting at the first regular meeting of the council after the by-election, and

(b) ending immediately before the beginning of the organizational meeting following the next general election, unless the office becomes vacant earlier.

88 Terms of office in newly formed municipalities

(1) If the first election in a newly established municipality is held at a time

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26 The official oath/affirmation specified in the Oaths of Office Act reads:

I . . . (swear) (solemnly and truly declare and affirm) that I will diligently, faithfully and to the best of my ability execute according to law the office of . . .

(So help me God)

other than at the date specified for a general election, the councillors hold office

(a) starting at the beginning of the organizational meeting following the first election, and

(b) ending immediately before the beginning of the organizational meeting after the next general election, unless the office becomes vacant earlier or the Minister extends the term under subsection (2).

(2) If the first election is less than 18 months before the date of the next general election, the Minister may order that the councillors continue to hold office until immediately before the beginning of the organizational meeting following the second general election after establishment of the newly formed municipality, unless the office becomes vacant earlier.

89 Resignations

(1) A councillor may resign by giving written notice to the chief administrative officer.

(2) A chief elected official elected by councillors from among themselves who resigns remains on council as a councillor, unless that office is resigned as well.

(3) A resignation under this section is effective

(a) on the date specified in the resignation notice, or

(b) if no date is specified, on the date the notice is received by the chief administrative officer.

(4) The chief administrative officer must report a resignation at the first meeting of council after receipt of the resignation.

Division 6

Vacancies

90 Councillor vacancies

A council must hold a by-election to fill vacancies on council unless

(a) the vacancy occurs during the 6 months before a general election, or

(b) a council consists of 6 or more councillors and the vacancy occurs

(i) in the 18 months before the next general election and there is only one vacancy on the council, or

(ii) in the 12 months before the next general election, and the number of councillors remaining is at least one more than the quorum of the whole council.

91 Chief elected official vacancy

(1) If the chief elected official is elected by councillors from among themselves and the office becomes vacant, the remaining councillors must elect one of their number as chief elected official for the remainder of the term of office at the next regular council meeting.

(2) If the chief elected official is elected by a vote of the electors of the whole municipality and the office becomes vacant, the council must fill the vacancy

(a) by holding a by-election, if there are 18 months or more before the next general election, or

(b) if there are less than 18 months before the next general election, by holding a by-election, or appointing one or more of their number as chief elected official, so that

(i) only one councillor holds office as chief elected official at any time, and

(ii) the office of chief elected official is filled at all times for

the remainder of the term of office.

SUB PART 2

COUNCIL PROCEEDINGS

92 Purpose of this Sub Part

The purpose of this Sub Part is to establish a framework for responsible decision making by councils.

Division 1

Council decisions and quorum

93 Validity of council's decisions

A bylaw or resolution is not valid unless it is passed at a regular or special council meeting held in public at which there is a quorum of councillors present.

94 Council committee decisions

If council delegates authority to a council committee no resolution made by the committee in respect of that authority is valid unless it is passed at a meeting held in public at which there is a quorum present.

95 Quorum

A majority of the whole council is a quorum of the council, unless a different quorum is established under this[27] or another enactment.

27 For example, the Minister can establish a different quorum under section 96 or 97.

96 Vacancies preventing a quorum of council

(1) If vacancies reduce the number of councillors to less than a quorum the Minister may

(a) appoint an official administrator, or

(b) order that the remaining councillors constitute a quorum

until the vacancies are filled by an election.

(2) The Minister may, as circumstances require, direct the chief administrative officer or the official administrator to make the necessary arrangements to conduct a by-election to fill the vacancies on council.

97 Illness and disability preventing a quorum of council

(1) If illness or disability reduces the number of councillors on a council to less than a quorum the Minister may order that the remaining councillors constitute a quorum.

(2) The Minister's order remains in effect until a majority of the councillors are able to resume their duties.

98 Pecuniary interest preventing a quorum of council

(1) If councillors must abstain from voting because of their pecuniary interest in a matter and the remaining councillors available to vote are less than a quorum, the Minister may

(a) order that the remaining councillors constitute a quorum for purposes of voting on that matter,

(b) despite the requirement to abstain from voting, order that all of the councillors may vote on the matter, or

(c) direct the chief administrative officer to hold a plebiscite on the matter, in which case the Minister may make any directions respecting the date of the plebiscite, the question to be voted on and procedural issues that are needed.

(2) If a plebiscite is held in accordance with the Minister's direction, the

council must comply with the result of the plebiscite.

(3) If a councillor, despite having a pecuniary interest in a matter,

(a) votes on the matter in accordance with the Minister's order under subsection (1)(b), or

(b) votes on the matter for the purpose of complying with the results of a plebiscite held in accordance with this section,

the councillor is not disqualified as a result of having voted.

Division 2

Voting

99 Councillors have one vote

A councillor has one vote each time a vote is held at a council meeting.

100 Eligibility to vote after a public hearing

When a public hearing on a proposed bylaw or resolution is held, a councillor, at a meeting of council to decide the matter,

(a) must not vote on a proposed bylaw or resolution if the councillor was absent from all of the public hearing, and

(b) may vote even though the councillor was temporarily absent from the public hearing.

101 Obligation to vote

Every councillor attending a council meeting must vote on matters put to a vote unless

(a) the councillor must abstain because of pecuniary interest,

(b) the councillor must abstain because of absence from all of a public hearing held to consider a matter before a vote is held, or

(c) the councillor exercises a right to abstain because of temporary absence from a public hearing held to consider the matter before a vote is held.[28]

102 Recorded votes

(1) Before a vote is taken by council on a matter a councillor may request that the vote be recorded.

(2) If a vote is recorded the minutes must show

(a) the names of the councillors present, and

(b) whether each councillor voted for or against the matter, or abstained.

103 Tied vote

If there is an equal number of votes for and against a matter it is to be considered as defeated.

104 Councillors prohibited from certain votes

(1) A councillor must not vote

(a) to spend for an operating purpose any money borrowed by the municipality for a capital purpose, except as permitted in section 191,

(b) in favour of any action which, if taken, would contravene a direction of the Minister to the municipality under this Act or the *Department of Municipal Affairs Act*, or

(c) to spend money borrowed by the issue of a debenture for a capital purpose for another purpose that is not authorized by the Local Authorities Board, except as permitted by section 191.

(2) Councillors who vote in a manner that is contrary to subsection (1) are

28 Failing to follow what this section says can result in disqualification under s118.

jointly and severally liable for the money spent in accordance with the vote and the municipality may recover the money spent by civil action for debt.

(3) If the municipality does not bring a civil action under this section within 30 days of a written request by an elector, taxpayer or debenture holder to do so, the action may be brought either by a taxpayer, elector or debenture holder alone or on their own behalf and on behalf of others.

Division 3

Public presence at council and council committee meetings

105 Council and committee meetings in public

(1) Councils and council committees must hold their meetings in public unless subsection (2) or (3) applies.

(2) A council or council committee may hold all or part of a meeting in camera if a majority of the councillors present at the meeting decide that[29]

(a) a matter is within one of the categories of information that can be reasonably withheld under section 9(2), and

(b) the matter should be discussed in camera.

(3) A council committee may regularly hold in camera meetings if it is authorized to do so by bylaw.

(4) When a meeting is held in camera, no resolution or bylaw can be passed at the meeting, except a resolution to revert to a public meeting.

106 Public right to be present

Everyone has a right to be present at council meetings and council committee meetings unless

29 Section 9(2) describes a range of information that can be kept confidential.

(a) a person is expelled and excluded from the meeting, by the person chairing the meeting, for improper conduct,

(b) council or council committee is in, or goes into, an in camera session, or

(c) council is required to go into an in camera session by this or another enactment.

107 Statements and written submissions

(1) A council or council committee may require a person appearing before it or making any claim or submission to it, to do so under oath.

(2) A written submission addressed to

(a) the chief elected official and the council,

(b) the council,

(c) the person chairing a council committee and the members of it, or

(d) a council committee,

must be read at a meeting of the council or council committee or a copy must be given to the councillors to whom it is addressed unless, in the opinion of the chief elected official, it is not in the public interest to distribute the submission.

Division 4

Organizational, regular and special council meetings

108 Organizational meetings

A council must hold an organizational meeting annually, no later than 2 weeks after the 3rd Monday in October.

109 Regularly scheduled meetings

(1) At a council meeting at which all the councillors are present the council may decide to hold regularly scheduled meetings of the council at stated dates, times and places in which case no notice of them is required to be given to councillors.

(2) If council changes the date, time or place of a regularly scheduled meeting

(a) notice of the change must be given to any councillors not present at the meeting at which the change was made, and

(b) public notice of the change must be given.

110 Special meetings

(1) The chief elected official may call a special council meeting whenever the official considers it appropriate to do so.

(2) A majority of councillors may make a written request to the chief elected official requesting that a special council meeting be called and stating its purpose.

(3) After receiving a request for a special meeting under subsection (2) the chief elected official must call a council meeting, stating its purpose and the time, date and place at which it is to be held within

(a) 14 days of receiving the request, or

(b) any shorter period that is prescribed by bylaw.

(4) Written notice of a special meeting is deemed to have been given to a councillor if it is delivered at least 24 hours before the meeting

(a) to the councillor, or

(b) to an adult person at the councillor's home or place of work.

(5) A special meeting can be held with less than 24 hours notice if, at the beginning of the special meeting, at least 2/3 of the whole council agree to the meeting being held.

(6) No business other than that stated in the notice calling the special meeting can be transacted at a special meeting unless, at the meeting, all of the councillors in office are present, in which case, by a vote of at least 2/3 of the councillors, the councillors agree to deal with other business.

111 Electronic communication system meetings

(1) In addition to ordinary public meetings, council or council committee meetings can be held by means of telephone, audio visual communication, electronic mail or other communication facilities if

(a) public notice is given of the meeting, the way in which it is to be conducted, and where they can watch or listen to it;

(b) the facilities allow the public to watch or listen to the meeting at a place specified in the public notice of the meeting, and at least one designated officer is in attendance at that place, and

(c) the facilities allow all the councillors at the meeting to participate in it and to hear or watch, as the case requires, the discussion by all of the other participants at the meeting, and to vote.

(2) A councillor participating in a meeting described in subsection (1) is considered to be present at the meeting.

SUB PART 3

WHAT HAPPENS IF A COUNCILLOR OR A MEMBER OF A COUNCILLOR'S FAMILY HAS A CONFLICT OF INTEREST?

112 Purpose of the Sub Part

The purpose of this Sub Part is to ensure the integrity of councillors and guide them in their conduct if they or certain family members have a pecuniary interest in a matter before council and certain other bodies.

Division 1

Pecuniary interest of councillors

113 Definitions

(1) In this Division

(a) "***corporation***", "***director***", "***distributing corporation***", "***officer***" "***shareholder***", "***voting rights***" and "***voting shares***", have the same meaning as they have in the *Business Corporations Act*;

(b) "***pecuniary interest***" means, with respect to a councillor, an interest in a matter that could monetarily affect

(i) the councillor,

(ii) a corporation, other than a distributing corporation, in which the councillor is a shareholder, director or officer,

(iii) a distributing corporation in which the councillor beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the councillor is a director or officer,

(iv) a partnership or firm of which the councillor is a member, or

(v) a person, partnership, firm or government that employs the councillor.

(2) For the purposes of this Division, the pecuniary interest of

(a) the spouse or common law spouse of the councillor, the councillor's children who are dependent on the councillor, and the parents of a councillor, and

(b) the parents of the councillor's spouse or common law spouse,

that are known to the councillor or of which the councillor reasonably should know, is deemed to be the pecuniary interest of the councillor.

(3) For the purposes of this Division a councillor does not have a pecuniary interest by reason only of any interest that the councillor may have

(a) as an elector, taxpayer or utility customer of the municipality,

(b) by reason of the councillor's appointment by the council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality or by reason of the councillor being appointed as the representative of the council on another body,

(c) with respect to any allowance, honorarium, remuneration or benefit to which the councillor may be entitled by being a councillor or by being appointed by the council to a position described in clause (b),

(d) by reason of the councillor's employment by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the councillor is an employee,

(e) by reason of the councillor being a member or director of a credit union, a cooperative association or a not for profit organization formed under an Act of the Legislature or of the Parliament of Canada, or a service club,

(f) by reason of the councillor's appointment as the volunteer chief or other volunteer officer of a volunteer fire department, volunteer ambulance service, volunteer emergency measures organization or other volunteer organization or service or by reason of remuneration received as a volunteer member of any of those voluntary organizations or services,

(g) by reason of having an interest that is an interest in common with the majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part,

(h) by reason of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor, or

(i) by reason of discussing or voting on a bylaw respecting

businesses or business activities when the councillor has an interest in a business that is affected by the bylaw.

(4) Subsections (3)(e) and (3)(f) do not apply to a councillor who is

(a) an employee of a credit union or cooperative association, or

(b) an employee of an organization or club referred to in those clauses.

(5) The exemptions under subsection (3) in respect of a councillor also apply with respect to the persons named in subsection (2).

114 Disclosing names of relatives

A council may pass a bylaw

(a) requiring that each councillor file with a designated officer a statement of

(i) the names of the councillor's spouse, common law spouse, children dependent on the councillor, and parents of the councillor's spouse or common law spouse, and

(ii) any person, partnership, firm or government referred to in section 113(1)(b),

and

(b) requiring the designated officer to compile a list of all the names reported on the statements filed with the officer and give a copy of the list to the employees of the municipality indicated in the bylaw.

115 Disclosure of pecuniary interest

(1) When a councillor has a pecuniary interest in a matter before the council, a council committee or any other body to which the councillor is appointed as a representative of the council, the councillor must, if present

(a) disclose the general nature of the pecuniary interest prior to any

discussion of the matter,

(b) abstain from voting on any question relating to the matter,

(c) subject to subsection (3), abstain from any discussion of the matter, and

(d) subject to subsections (2), (3) and (6), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

(2) If the matter with respect to which the councillor has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the councillor to leave the room.

(3) If the matter with respect to which the councillor has a pecuniary interest is a question on which, under this or another enactment, the councillor as a taxpayer, an elector or owner has a right to be heard by the council

(a) it is not necessary for the councillor to leave the room, and

(b) the councillor may exercise a right to be heard in the same manner as a person who is not a councillor.

(4) If a councillor is temporarily absent from a meeting when a matter in which the councillor has a pecuniary interest is introduced, the councillor must immediately on return to the meeting, or as soon as the councillor becomes aware that the matter is being considered, disclose the general nature of the councillor's interest in the matter.

(5) The abstention of a councillor under subsection (1) and the disclosure of a councillor's interest under subsection (4) must be recorded in the minutes of the meeting.

(6) If a councillor has declared a pecuniary interest at a council committee meeting and council considers a report of the committee in respect of which the councillor declared a pecuniary interest, the councillor need not re-declare the interest nor leave the room when council discusses and votes on the matter.

(7) A councillor who contravenes this section is disqualified from council.

116 Effect of pecuniary interest on agreements

(1) No agreement with a municipality under which a councillor of the municipality has a pecuniary interest is binding on the municipality unless

(a) the agreement is for work in an emergency or relating to extraordinary circumstances,

(b) the agreement is for the sale of goods or services to the municipality or to persons contracting with the municipality at competitive prices by a dealer in those goods or services incidental to or in the ordinary course of the business, or

(c) the agreement is approved by council.

(2) For the purposes of this section, a councillor does not have a pecuniary interest just because the councillor provides professional services incidental to and in the normal course of the councillor's professional practice to a person contracting with the municipality.

(3) A councillor who has a pecuniary interest in an agreement with the municipality, other than an agreement referred to in subsection (1) or in the circumstances described in section 98, is disqualified from council.

(4) A councillor is disqualified from council if the councillor uses information gained through being on council to gain a pecuniary benefit in respect of any matter.

117 Certain agreements prohibited

(1) A councillor or employee of the municipality, alone or jointly, must not make an agreement with a municipality by which the municipality supplies a service or commodity, except for services or commodities that the municipality supplies to the public generally or as an employee benefit.

(2) An agreement made contrary to subsection (1) is void.

Division 2

Disqualification of councillors

118 Reasons for disqualification

(1) A councillor is disqualified from council if

(a) the councillor ceases to be eligible for nomination as a candidate under the *Local Authorities Election Act*;[30]

(b) the councillor becomes a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;

(c) the councillor is absent from regular council meetings held during any period of 8 consecutive weeks, starting with the date that the first meeting is missed, unless subsection (2) applies;

(d) the councillor is convicted

(i) of an indictable offence punishable by imprisonment for 5 or more years, or

(ii) an offence under section 123, 124 or 125 of the Criminal Code (Canada);

(e) the councillor does not vote on a matter at a council meeting at which the councillor is present, unless the councillor is required or

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30 A person is eligible for nomination as a candidate under the Local Authorities Election Act if he or she

(a) is eligible to vote in that election,

(b) has been a resident of the local jurisdiction and the ward, if any, for the 6 consecutive months immediately preceding nomination day, and

(c) is not otherwise ineligible or disqualified.

(2) Notwithstanding subsection (1), in the case of a city, a candidate for councillor is not required to be a resident of the ward in either a general election or a by-election, but must be a resident of the city.
(s21(1) and (2))

Section 22 of the Local Authorities Act specifies what makes a person "otherwise ineligible or disqualified".

is permitted to abstain from voting under this Act;[31]

(f) the councillor discloses information the councillor is required to keep in confidence under section 71(g);

(g) the councillor becomes an employee of the municipality.

(2) A councillor is not disqualified by being absent from regular council meetings under subsection (1)(c) if the absence is authorized by a resolution of council passed

(a) at any time before the end of the last regular meeting of the council in the 8 week period, or

(b) if there is no other regular meeting of the council during the 8 week period, at any time before the end of the next regular meeting of the council.

(3) For the purposes of this section, a councillor is not considered to be absent from a council meeting if

(a) the councillor is elected to a municipal association and is absent on its business, or

(b) the councillor is absent on council business at the direction of council.

31 The general rule is that councillors are required to vote at meetings. They must abstain if they have a pecuniary interest (although the Minister can waive the necessity for the abstention in order to establish a quorum), or if absent from all of a public hearing leading to a council decision, and may abstain if they are temporarily absent from a public hearing preceding a council decision.

(4) Despite section 24 of the *Local Authorities Election Act*,[32] a councillor who is disqualified under this section is eligible to be elected at the next ensuing general election in the municipality if qualified for nomination under the *Local Authorities Election Act*.

Division 3

Court applications to deal with disputes about disqualification

119 Resignation on disqualification

(1) A councillor must resign immediately after being disqualified from council.

(2) If a councillor does not resign immediately

(a) the council may apply by originating notice to a judge of the Court of Queen's Bench for

(i) an order determining whether or not the person is able to remain a councillor, or

(ii) an order declaring the person to be disqualified from

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32 Section 24 of the Local Authorities Election Act reads:

24(1) A person who held office on an elected authority and

(a) who resigned his office to avoid making restitution for money he received that disqualified him from holding that office pursuant to this or any other Act and has been ordered by a judge to make restitution, or
(b) who was declared by a judge to be disqualified to hold that office pursuant to this or any other Act,

is not eligible to become a member of that elected authority until after 2 general elections have occurred after the date on which he was ordered to make restitution or was declared to be disqualified.

(2) Notwithstanding that a by-election or general election has been held between the time when the disqualification of the member or former member arose and the time when the order or declaration has been made by the judge subsection (1) applies and, if the person was re-elected, he is not eligible to remain a member of the elected authority.

(3) Notwithstanding subsections (1) and (2), a judge

(a) who has made an order described in subsection (1)(a), or
(b) who has declared a person to be disqualified

may reduce the period of disqualification.

(4) An appeal against the decision of a judge under this section lies to the Court of Appeal.

council,

or

(b) an elector who

(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a councillor, and

(ii) pays into court the sum of $250 as security for costs,

may apply by originating notice to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from council.

(3) An application under this section can only be made within 3 years of the date the contravention is alleged to have occurred.

(4) An application under this section can be started or continued whether or not an election has been held between the time the disqualification is alleged to have occurred and the time the application is or was commenced and whether or not the person in respect of whom the application is being brought

(a) resigns before or after the election,

(b) was re-elected in the election,

(c) was not re-elected or did not run in the election, or

(d) has completed a term of office.

120 Decision on disqualification application

(1) After hearing an application under this Division and any evidence, either oral or by affidavit, that is required, the judge may

(a) declare the person to be disqualified and a position on council to be vacant,

(b) declare the person able to remain a councillor, or

(c) dismiss the application with or without costs.

(2) If a judge declares a person disqualified because information obtained through being a councillor was used to gain a pecuniary benefit, the judge may order the person to pay to the municipality a sum of damages determined by the court.

121 Inadvertence or genuine error

A judge who hears an application under this Division and finds that the person is disqualified under section 115 or 116 may still dismiss the application if the judge is of the opinion that the disqualification arose inadvertently or by reason of a genuine error in judgment.

122 Appeal

(1) The decision of a judge under this Division may be appealed to the Court of Appeal.

(2) A person who is declared disqualified under this Division and appeals that declaration remains disqualified until the appeal is finally determined.

(3) If, on the final determination of the appeal, the disqualification is set aside

(a) the Court must reinstate the person as a councillor for any unexpired portion of the term of office for which the person was elected and require any person who has been elected to fill the balance of that term to vacate the office, and

(b) the Court may order that any money paid to the municipality under section 120(2) be repaid.

(4) If on the final disposition of the appeal the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next ensuing election in the municipality if otherwise qualified.

123 Reimbursement of costs and expenses

If an application under this Division

(a) is dismissed, or

(b) an order is issued declaring the person able to remain a councillor,

the council may reimburse the person in respect of whom the application was made any costs and expenses that the council considers reasonable, other than costs that have already been awarded to the person by the judge.

PART 6

WHAT KIND OF THINGS CAN A MUNICIPALITY DO?

SUB PART 1

SPHERES OF JURISDICTION

124 Purpose of this Sub Part

The purpose of this Sub Part is to give councils law making powers and describe their general jurisdiction, in addition to the rights, powers and privileges they have as a result of their incorporation.

Division 1

Jurisdiction of municipalities

125 General jurisdiction

Municipalities have jurisdiction to

(a) provide necessary or desirable services and facilities for people and property,

(b) develop safe, viable and pleasing communities, and

(c) do other things that are necessary, in the opinion of the council, for the general benefit of the municipality.

Division 2

Bylaw making authority

126 Bylaw spheres of jurisdiction[33]

(1) In each municipality the council may pass bylaws in relation to matters coming within the following spheres of jurisdiction:

(a) the protection of persons and property and the regulation of nuisances;

(b) the regulation of

(i) activities and other things in public places, and

(ii) activities at and matters related to gatherings of the public for any public or private purpose, other than in private dwelling houses;

(c) the regulation of transport and transportation systems;

(d) the regulation of business, business activities and persons engaged in business;

(e) the provision and regulation of municipal services, public utilities or other activities that are necessary or desirable for persons or property;

(f) the regulation of wild and domestic animals and activities in relation to them;

(g) the regulation of any activity or thing that endangers or affects the safety, health or convenience of others;

(h) providing for and regulating the raising of revenue or the recovery of expenditures by imposing fees, costs, rates, levies, tolls or charges for services, activities of or things done by the municipality;

33 Schedule 3 has examples of the bylaws that could be made under each of the spheres of bylaw making power.

(i) enforcement of bylaws, inspections for and remedy of contraventions of bylaws, including any or all of the following:

(i) the creation of offences and, on summary conviction, providing for the imposition of penalties not exceeding $10,000 for each offence;

(ii) on summary conviction, providing for the imprisonment of persons for not more than one year for contravention of a bylaw or non payment of a fine, or both;

(iii) voluntary payment tags;[34]

(j) the procedure and conduct of council, the conduct of councillors, and the functions, powers and duties of councillors, and the establishment, operation and functions of council committees and other bodies;

(k) the delegation of functions, duties and powers, and providing for subdelegation, and generally for the good government of the municipality.

(2) The power to make bylaws elsewhere in this or in other enactments does not limit the bylaw making powers described in this section.[35]

127 Jurisdiction confined within municipal boundaries

Bylaws of a municipality are confined to the area inside its boundaries unless

(a) 2 or more municipalities agree that a bylaw has effect in their respective municipalities, or

(b) this or other enactments say that the bylaw applies outside the boundaries of the municipality.[36]

34 This needs to be linked to s54 of the *Provincial Offences Procedure Act*.

35 There are approximately 40 other Acts which give municipalities bylaw making powers.

36 An example of this is when land is moved from the jurisdiction of one municipality to another. The "old" bylaws made by the municipal council formerly having jurisdiction over the land continue to apply until new ones are made.

128 Effect and extent of bylaw making authority

Within its bylaw making authority a council may make bylaws with the same effect and to the same extent that the Legislature can make law.

129 Conflicts and inconsistencies with Provincial law

If there is a conflict or inconsistency between an enactment and a bylaw, the bylaw is of no effect to the extent of the inconsistency.

130 Guides to interpreting bylaw making powers

(1) Bylaw making powers are stated in general terms to

(a) give broad authority to councils and respect their right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to them under this and other enactments,

(b) enhance the ability of councils to respond to present and future issues in their municipalities by passing bylaws to govern matters of interest or concern to them, and

(c) carry out the purposes of this Act as the council sees most fitting for the municipality for which it is elected.

(2) The bylaw making powers of councils are to be interpreted so as to give effect to the purposes of this Act.

(3) In Schedule 3, the examples of bylaws that could be made by a council

(a) are illustrative and indicative only, not exhaustive, and

(b) do not and are not intended to limit the bylaw making powers of council.

Division 3

Challenging bylaws

131 Appeal to the Court of Appeal

(1) An appeal on a bylaw on a question of law or a question of jurisdiction lies to the Court of Appeal after leave to appeal has been obtained.

(2) Application for leave to appeal to the Court of Appeal must be made to a judge of the Court of Appeal within 60 days after the bylaw receives 3rd reading, or within any further time that the judge in special circumstances permits, unless subsection (3) applies.

(3) An application may be made at any time with respect to a bylaw required to be put to a plebiscite of electors which has not been voted on, or which has not been given the required approval in the plebiscite, or which must be repealed or amended as a result of a plebiscite.

(4) Notice of the application for leave to appeal must be given to the municipality and to any other person the judge directs.

132 Decision about the leave application

The judge may

(a) grant leave to appeal,

(b) direct which persons or other bodies must be named as respondents to the appeal,

(c) specify the questions of law or the questions of jurisdiction to be appealed, and

(d) make an order about the costs of the application.

133 Municipality to be named as respondent

(1) The municipality whose council passed the bylaw must be named

(a) as a respondent to an application for leave to appeal, and

(b) as a respondent to the appeal if leave to appeal is granted.

(2) The municipality is entitled to be represented by counsel at an application for leave to appeal and at the appeal itself.

134 Validity of bylaws and resolutions

A bylaw or resolution is not to be declared wholly or partly invalid because it is thought to be unreasonable.

135 Effect of councillor being disqualified

(1) A bylaw, resolution or proceeding of a council is not defective just because a person sitting or voting as a councillor

(a) is not qualified to be on council,

(b) was not qualified when the person was elected, or

(c) after the election, ceased to be qualified or became disqualified.

(2) A bylaw, resolution or proceeding of council is not invalid because

(a) the election of a whole council is invalid,

(b) the election of one or more councillors is invalid,

(c) a councillor has resigned because of disqualification,

(d) a person has been declared disqualified from being a councillor, or

(e) a councillor or an official on council does not take the oath of office.

Division 4

Special purpose bylaws

136 Business revitalization zone

A council may by bylaw establish one or more business revitalization zones, and deal with related matters, in accordance with Schedule 4.

Division 5

Expropriation

137 Expropriation powers

If a council wants to acquire an estate or interest in land, inside or outside the municipality,

(a) for a purpose authorized by this or other enactments,

(b) for a municipal purpose,

(c) in connection with an area redevelopment plan under the *Planning Act*, whether undertaken by the municipality alone or in conjunction with another person, or

(d) to improve land owned by the municipality,

it may acquire the estate or interest in the land by expropriation under the *Expropriation Act*.

138 Temporary roads

(1) A council may pass a bylaw to open and maintain a temporary road or temporary right of way on private land for public purposes when, in the opinion of the council, a road in the vicinity cannot be used or is not safe to use.

(2) The owner or occupier of land over which the temporary road or temporary right of way passes, or both of them, are entitled to

compensation from the municipality for loss or damage resulting from the bylaw.

(3) If there is no agreement the matter must be decided by the Land Compensation Board.

Division 6

Civic holidays

139 Civic holidays

(1) The chief elected official may declare by proclamation one day or 2 half days in a year as civic holidays.

(2) A council may also declare another one day or 2 half days of the year as civic holidays.

Division 7

How are bylaws made?

140 Bylaw readings

(1) Every proposed bylaw must have 3 distinct and separate readings at a meeting of council before it is finally passed.

(2) A proposed bylaw cannot have more than 2 readings at a council meeting unless the councillors present unanimously agree to consider 3rd reading.

(3) If a proposed by-law is in writing and available to councillors and the public, only the title or identifying number need be read at each reading of the bylaw.

141 Votes after each reading

(1) After reading a proposed bylaw, and debate if any, council must vote on it.

(2) A proposed bylaw cannot be given a further reading unless a majority of the councillors voting on the reading vote in favour of it.

(3) Before 3rd reading of a proposed bylaw each councillor present at the meeting at which 3rd reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw.

142 Cancellation of previous bylaw readings

The previous readings of a proposed bylaw are rescinded if the proposed bylaw

(a) does not receive 3rd reading within 2 years of 1st reading, or

(b) is defeated on 2nd or 3rd reading.

143 Coming into force

A bylaw comes into effect

(a) on the day after it is given 3rd reading,

(b) on any later date or dates specified in the bylaw, or

(c) if approval of the bylaw is required under this or any other enactment, on the date the approval is given or on any future date specified in the bylaw.[37]

144 Repeal or amendment of bylaws

A council may repeal or amend bylaws unless this or other enactments specifically prohibit or limit that power.

37 Some bylaws must be approved by the Local Authorities Board. Some Acts require bylaws to be approved in certain cases (eg. by Order in Council under the *City Transportation Act*).

Division 8

Advertising bylaws, resolutions and public meetings and giving notice of public hearings

145 Some bylaws and resolutions must be advertised

When this or another enactment requires

(a) a proposed bylaw to be advertised, the advertisement must take place before 2nd reading, or

(b) a proposed resolution to be advertised, the advertisement must take place before it is voted on by council.

146 What is "advertising"?

(1) When this or another enactment requires a bylaw, resolution, public meeting or something else to be 'advertised' for the purpose of this Act, notice of it must be published at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw, resolution or other thing relates, or in which the meeting is to be held.

(2) The published notice must contain

(a) a statement of the general purpose of the proposed bylaw, resolution, meeting or other thing,

(b) the address where a copy of the proposed bylaw, resolution or other thing, and any document relating to it or to the meeting can be inspected, and

(c) in the case of a bylaw or resolution, an outline of the procedure to be followed by anyone wishing to file a petition in respect of it.

147 Petition and plebiscite on advertised bylaws

(1) If electors in a municipality submit a sufficient petition for a vote on

(a) a bylaw advertised in accordance with Part 7 (Financial

Administration), within 15 days of the last date on which the proposed bylaw is advertised, or

(b) a bylaw advertised in accordance with any other provision of this Act, within 60 days of the last date on which the proposed bylaw is advertised,

the council must make a decision under subsection (3).

(2) A signature on a petition presented under subsection (1) is effective for 60 days from the last day on which the proposed bylaw is advertised.

(3) The council

(a) may decide not to proceed with the proposed bylaw, or

(b) if it decides to proceed with the proposed bylaw, must submit the bylaw to a vote of the electors.

(4) If at a vote the electors approve the proposed bylaw the council may proceed to finally pass it.

(5) If at a vote the electors do not approve the proposed bylaw, the council must not give it any further readings and any previous readings are rescinded.

(6) If a sufficient petition is not received in time the council may proceed to finally pass the bylaw.

148 Notice of public hearings

(1) When this or another enactment requires council to hold a public hearing on a proposed bylaw or resolution the public hearing must be held

(a) before 2nd reading of the bylaw, or

(b) before council votes on the resolution.

(2) The council must publish a notice of the public hearing at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw or resolution relates.

(3) The notice must contain

(a) a statement of the purpose of the meeting,

(b) the proposed bylaw or resolution, or a description of it,

(c) the address where a copy of the proposed bylaw or resolution, and any related documents, and a description of the procedure to be followed at the hearing, may be inspected by the public, and

(d) the one or more dates, places and times the council will hold a public hearing with respect to the proposed bylaw or resolution.

Division 9

How can bylaws be kept up to date and made understandable?

Revision of bylaws

149 What is the purpose of the Division?

The purpose of this Division is to enable a council to make bylaws more accessible and understandable by allowing a revision of bylaws to be undertaken.

150 Who will do the work?

A revision is to be undertaken by a person or persons, appointed by the council, to be known as "the revisor".

151 Revision authorized

(1) A bylaw may authorize the revisor to revise all or any of the bylaws of the municipality.

(2) In the work of bylaw revision the revisor can be authorized to

(a) make changes necessary to bring out more clearly what is

considered to be the meaning of a bylaw or to improve the expression of the law,

(b) consolidate 2 or more bylaws into one, divide a bylaw into 2 or more bylaws, move provisions from one bylaw to another and create a draft bylaw from another or 2 or more others;

(c) omit and provide for the repeal of bylaws that are inoperative, obsolete, expired, spent or otherwise ineffective;

(d) omit, without providing for its repeal, a bylaw of general application that is of a transitional nature or that refers only to a particular place, person or thing or that has no general application throughout the municipality;

(e) alter the citation or title of a bylaw, or the numbering or arrangement of its provisions, and add, change or omit a note, heading, title, marginal note, diagram or example to a bylaw;

(f) omit preambles and the long title and, if appropriate, incorporate the long title or preamble as a purpose section;

(g) omit forms or other material contained in a bylaw that can more conveniently be contained in a resolution, and add to the draft revised bylaw authority for the forms or other material to be prescribed by resolution.

(3) In preparing drafts of revised bylaws the revisor must not make any substantial change to the meaning of a bylaw.

152 Examination of revised bylaws

(1) The chief administrative officer must provide drafts of revised bylaws prepared by the revisor to a council committee authorized to examine and approve the drafts.

(2) When one or more of the drafts have been approved by the council committee, the chief elected official must introduce a bylaw substantially in accordance with the model bylaw set out in Schedule 5, or to like effect.

(3) The revised bylaws presented to council must, individually or collectively,

(a) be certified by the revisor as having been revised in accordance with the bylaw authorizing the revision, and

(b) be countersigned by the chief administrative officer to the effect that the officer concurs with the revisor's certificate.

Consolidation of bylaws

153 Consolidation of bylaws

(1) A council may, by bylaw, authorize a designated officer to consolidate any one or more of the bylaws of the municipality.

(2) In consolidating a bylaw the designated officer may

(a) incorporate all amendments to it into one bylaw, and

(b) omit any provision that has been repealed or that has expired.

(3) A printed document purporting

(a) to be a copy of a bylaw consolidated under this section, and

(b) to be printed under the authority of a designated officer,

must be admitted as evidence of proof of the original bylaw, of all bylaws amending it, and of the fact of the passage of the original and all amending bylaws.

SUB PART 2

MUNICIPAL ADMINISTRATION

154 What is the purpose of this Sub Part?

The purpose of this Sub Part is to provide

(a) for the establishment of effective forms of management of the human, financial and material resources of the municipality;

(b) an efficient means of implementing council's policies and carrying out council's programs;

(c) a means to carry out the functions and duties given to or imposed on the chief administrative officer and designated officers by this and other enactments and by bylaws.

155 Municipal office

Every council must name a place as its municipal office.

156 Chief administrative officer

(1) Every council must appoint one or more persons to carry out

(a) the functions, duties and powers of a chief administrative officer under this and other enactments, and

(b) any other functions, duties and powers described by the council.

(2) The council may give the person or persons appointed under subsection (1) the title or titles it considers appropriate.

(3) A person referred to in subsection (1) may only be appointed or terminated by a 2/3 majority vote of the whole council.

(4) The council must make provision for the regular review of the performance of the person or persons carrying out the chief administrative officer's functions, duties and powers.

157 Maintenance of records

A municipality must assign to the chief administrative officer, or to a person appointed as a designated officer (for example, the municipal secretary or treasurer), the following responsibilities:

(a) to record, in the English language, without note or comment,

(i) all resolutions, decisions and other proceedings of the council, and

(ii) the names of the councillors present at council meetings,

(b) to make sure the minutes of each council meeting are given to the council for adoption at a subsequent meeting of the council,

(c) to keep the original of all bylaws safe,

(d) to keep safe all documents and records

(i) presented at meetings of council, or

(ii) given or sent by council to the chief administrative officer,

(e) to send the Minister a list of councillors and their offices within 5 days of each organizational meeting of the council, and any other information the Minister requires,

(f) to keep custody of the corporate seal,

(g) to collect and control the revenue and income of the municipality, and issue receipts in a manner or form directed by the council,

(h) to deposit in a financial institution designated by the council all money belonging to the municipality,

(i) to pay all accounts which are a proper charge against the municipality for any purpose authorized in the operating or capital budgets, or by resolution of the council,

(j) to maintain, hold and administer municipal accounts and keep accurate records of the financial affairs of the municipality,

(k) to report to council as often as the council directs on the actual revenues and expenditures of the municipality compared to the estimates in the operating or capital budgets approved by the council, and

(l) such other functions or duties as are imposed by a bylaw.

158 Designated officers

(1) Every council may appoint one or more persons to carry out the functions, duties and powers of a designated officer under this and other enactments.

(2) The council may give the person or persons appointed under subsection (1) the title or titles it considers appropriate.

(3) If the council does not appoint a designated officer the chief administrative officer has the designated officer's functions, duties and powers.

159 Signing authorities

(1) Minutes of council meetings must be signed by

(a) the chief elected official or the councillor presiding at the meeting, and

(b) a designated officer.

(2) Bylaws of the municipality must be signed by

(a) the chief elected official or the councillor presiding at the meeting at which the bylaw was given 3rd reading, and

(b) a designated officer.

(3) Agreements, cheques and other negotiable instruments must be signed or authorized

(a) by the chief elected official or another person authorized by council to sign them, and

(b) a designated officer,

or by a designated officer acting alone if so authorized by the council.

(4) Signatures may be printed, lithographed or otherwise reproduced if so authorized by council.

SUB PART 3

LIMITS ON CORPORATE ACTIVITIES OF MUNICIPALITIES

Division 1[38]

Land and weather modification agreements

160 Disposal of land[39]

(1) If a municipality proposes to dispose of or grant an estate or interest in land or a building for less than its fair market value the proposal must be advertised, unless subsection (2) applies.

(2) Subsection (1) does not apply when a municipality disposes of or grants an estate or interest in land or a building to

(a) the Crown in right of Alberta, the Crown in right of Canada or an agent of either Crown,

(b) a municipality or an agency of a municipality,

(c) the board of trustees of a school district or division,

(d) a technical institute, public college or university,

(e) a not for profit organization formed under a law of Alberta, or

(f) provide land for a public utility.

(3) This section does not apply to the disposition or granting of an estate or interest in land or a building under the *Tax Recovery Act* before the period of redemption under that Act.

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38 A municipality has the rights, powers and privileges of an individual except as they are modified by its corporate status or by this Act. This Division deals with some of those limits. Others appear in other sections (for example before money can be spent on a municipal program it must show up in the operating budget).

39 Further restrictions on the disposal of certain types of land may be needed (eg. to reflect s127(2)(a) Municipal Government Act).

161 Acquisition of land outside municipal boundaries

(1) Before a municipality acquires any estate or interest in land outside its boundaries the council must get the approval of the council within whose boundaries the land is located.

(2) No bylaw or resolution acquiring an estate or interest in land outside its boundaries can be passed without the written consent of the municipality in whose boundaries the land is located.

(3) If approval cannot be obtained either municipality may request the Local Governance Commission to assist in negotiations under Schedule 2.

(4) A municipality does not need to obtain approval to acquire an option on land outside its boundaries.

162 Weather modification agreements

(1) A municipality must not make an agreement to provide weather modification services to the municipality, or amend the agreement, unless the agreement or amendment is authorized by a bylaw.

(2) A bylaw under subsection (1) must be advertised.

Division 2

Municipal benefits and services and public utilities

163 Providing municipal benefits and services

(1) A municipality may

(a) supply for public consumption,

(b) provide for public benefit or convenience, or

(c) construct and operate

anything which the council considers is reasonably necessary to

maintain the best standards of living for the inhabitants of the municipality under modern conditions.

(2) Any revenue generating activity under subsection (1) may be provided and operated as a public utility.

(3) Anything under subsection (1) may be provided and operated either within or, by agreement with other municipalities, outside a municipality's boundaries.

164 Municipally operated public utilities

(1) When it operates a public utility the council may pass a bylaw prohibiting any other person operating the same public utility in all or any part of the municipality.

(2) A municipally operated public utility, when it is able to do so, must supply all buildings on land lying along the line of the public utility on request of the owner or occupant of the building.

(3) In accordance with its bylaws, a municipality may, for any lawful reason,

(a) discontinue supplying or providing a public utility to a person or property after giving reasonable notice of its intention to do so, and

(b) remove the equipment supplying or providing a public utility.[40]

165 Water and sewer connections

(1) A council may pass bylaws directing the owner of a building or structure to participate in any municipally operated system for

(a) the supply of water,

(b) the disposal of sewage, or

(c) the control of drainage.

40 Sections 324-325 provide for enforcement of bylaws, if need be.

(2) The bylaw may, for example, in order to ensure the safety, adequate drainage, and proper sanitary condition of the building or structure,

(a) direct the owner of the premises on land lying along a sewer main or water main to install equipment so that the premises is connected to the sewer or water mains, or both;

(b) prohibit the use of toilets or sanitary or septic systems that are not connected with the sewer mains and provide for toilets or sanitary or septic systems to be removed or filled in;

(c) direct the owner of the premises on land abutting a road where a system of storm sewers is located to connect the premises to the system.

(3) If the owner does not do as the bylaw requires within the period of time fixed by the bylaw, the municipality may, in accordance with this Act, enter the land and building or structure concerned and make the connection or install the system at the expense of the owner.

166 Appeal

(1) A person who uses or receives a service from a municipal public utility may appeal a service charge, rate or toll made in respect of it to the Public Utilities Board, but may not challenge the public utility rate structure itself.

(2) If the Public Utilities Board is satisfied that the person's service charge, rate or toll

(a) does not conform to the public utility rate structure established by the municipality,

(b) has been improperly imposed, or

(c) is discriminatory,

the Board may order the charge, rate or toll to be wholly or partly varied, adjusted or disallowed.

167 Other authorizations and approvals

Nothing in this Part exempts a municipality or other person from obtaining necessary approvals or other authorizations under a law of Alberta or Canada.[41]

Division 3
Agreements to provide public utilities

168 Granting rights to provide public utilities

(1) A council may, by agreement, grant a right, exclusive or otherwise, to a person to provide a public utility[42] for the public benefit or convenience in the municipality, for not more than 20 years.

(2) A council may, by agreement, grant a right, exclusive or otherwise, to use public property for the construction, operation and extension, of a public utility in the municipality, for not more than 20 years.[43]

(3) Before any agreement[44] under this section is made, amended or renewed, it must

(a) be advertised, and

(b) be approved by the Public Utilities Board.[45]

169 Cable television

A council may, by agreement, grant a right, exclusive or otherwise, to provide community antenna television or cable television for a period of

41 For example, under Alberta's *Clean Water Act* waterworks systems, and sewer and sewerage projects must get Provincial approval.

42 "public utility" is defined in Schedule 1.

43 The right to use public property may need to be expanded to cover other services and benefits that are not public utilities.

44 The agreement can also include a property tax agreement under s251.

45 Note references to approval in s96(1) *Public Utilities Board Act* and s40(1) *Gas Utility Board Act*.

not more than 20 years.[46]

170 Long term supply agreements to public utilities

If a council proposes to make an agreement for the supply to a public utility of

(a) water or steam,

(b) natural gas, or

(c) electric power,

for a period, with rights of renewal, that could exceed 5 years, the agreement must be approved by the Public Utilities Board before it is made.

Division 4

Effect of boundary changes on rural gas franchises

171 Definitions

In this Division

(a) ***"distributor"***, ***"franchise area"*** and ***"rural gas utility"*** have the same meaning as they have in the *Rural Gas Act*;[47]

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46 Cable television is not included in the definition of "public utility" in Schedule 1 but could be designated as a public utility by the council.

47 In the *Rural Gas Act* those words are defined as follows:

(d) "distributor" means

(i) the owner of a gas utility to which the Gas Utilities Act applies,
(ii) a member-owned co-operative association,
(iii) a rural municipal authority, or
(iv) a remote urban municipality designated by the Minister under section 2

that owns or operates a rural gas utility;

(g) "franchise area" means the area prescribed as the franchise area in a franchise area approval;

(o) "rural gas utility" means a system of pipelines for the distribution and delivery of gas and which provides gas service wholly or primarily to rural consumers in Alberta or consumers in remote urban municipalities in Alberta;

(b) ***"annexed franchise area"*** means

(i) an area of land annexed from one municipality to another, or

(ii) an area of land the administration of which is transferred from one municipality to another;

(c) ***"Provincial chief officer"*** has the same meaning as ***"chief officer"*** in the *Rural Gas Act*.[48]

172 How does annexation affect rural gas utilities?

(1) When all or part of the franchise area of a rural gas utility is annexed or transferred to the boundaries of a city, town, village or summer village the new council responsible for the annexed franchise area must request proposals for the provision of natural gas to the annexed franchise area from

(a) the existing distributor to the annexed franchise area, and

(b) the person holding any right to provide natural gas to the municipality.

(2) The city, town, village or summer village council must decide which person is to provide natural gas to the annexed franchise area within 12 months from the effective date of the order creating the annexed franchise area.

(3) The council must send a copy of its decision to the persons who made proposals to it.

173 Council's former agreements are not binding

(1) Council may make its decision under this Division even though it previously granted an exclusive or other right to another person to provide natural gas for the public benefit in the municipality.

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48 The *Rural Gas Act* defines "chief officer" as:

(b) "chief officer" means the Deputy Minister of the Department or an employee of the Department designated by the Minister as chief officer;

(2) A decision of a council under this Division does not give a right to bring a legal action against the municipality or other person even though it contravenes a provision of an agreement with another person.

174 What happens if the rural gas utility proposal is successful?

(1) If the person making the successful proposal is the rural gas utility, the council must, after making its decision,

(a) grant the person a right to provide a public utility (under section 168), and

(b) if necessary, amend the existing agreement to provide natural gas for the public benefit in the municipality to take account of the annexed area.

(2) The amendments required by this section need not be advertised or approved by the Public Utilities Board.

175 What happens if the municipal supplier is successful?

(1) If the person making the successful proposal is the person holding the right to provide natural gas to the municipality the council must, when necessary, amend the existing agreement to provide natural gas in the municipality to take account of the annexed area upon making its decision.

(2) The amendments required by this section need not be advertised or approved by the Public Utilities Board.

176 Application under the *Rural Gas Act*

Within 60 days of making its decision about who is to supply natural gas to the annexed franchise area the council must notify the Provincial chief officer of its decision, and the Provincial chief officer must amend the distributor's franchise area and service area accordingly.

177 Compensation

(1) The person making the successful proposal must pay the person who,

before the council's decision, supplied natural gas to some or all of the consumers in the annexed area in accordance with subsection (2).

(2) Compensation must be paid by the successful applicant for

(a) the value of equipment and plant that will continue to be used to provide natural gas to the annexed area;

(b) any plant or equipment abandoned;

(c) any plant or equipment relocated;

(d) the cost of legal surveys of equipment and plant which will continue to operate;

(e) any other reasonable costs which result from the council's decision.

178 Right of appeal

(1) If

(a) council does not make a decision on who is to provide natural gas to the annexed franchise area within 12 months of the effective date of the order creating the area,

(b) the Provincial chief officer does not amend the franchise area within 60 days of being requested to do so, or

(c) the distributor is not paid compensation within 6 months of council's decision not to allow the distributor to continue to provide natural gas to the annexed franchise area,

the distributor, the council or other interested party, may appeal to the Public Utilities Board by written notice.

(2) After hearing an appeal the Public Utilities Board may

(a) state the date by which a council must make a decision on who is to provide natural gas to the annexed or transferred area and notify the Provincial chief officer;

(b) order the date by which the Provincial chief officer is to amend

the distributor's franchise area;

(c) order the amount of compensation to be paid by and to whom, and the date by which it is to be paid.

179 What happens in the annexed franchise area while council makes a decision?

(1) During the period between

(a) the effective date of the order creating the annexed franchise area, and

(b) the date on which either

(i) the council amends its agreement with the public utility to include the annexed area, or

(ii) the council grants the distributor a right to provide a public utility under section 168,

the distributor's franchise area approval remains in effect.

(2) The parties may agree on other arrangements to provide natural gas during the interim period.

PART 7

FINANCIAL ADMINISTRATION

Division 1

Accounts and financial year

180 Establishment of municipal accounts

(1) Only a council may open or close accounts to hold, administer or invest funds of the municipality unless the council authorizes another person to do so.

(2) The accounts must be kept in a financial institution designated by the council.

181 Municipal revenue

(1) All revenue of a municipality must be paid into one or more accounts of the municipality.

(2) The accounts of a municipality must be held and administered

(a) by a designated officer, or

(b) in accordance with a bylaw.

182 Financial year

The financial year of a municipality is the calendar year.

Division 2

Budgets and investments

183 Adoption of operating budget

(1) Before the end of each calendar year a council must adopt

(a) an operating budget for the next calendar year which provides for a balance of revenues and expenditures, or

(b) an interim budget for part of that year.

(2) If a council adopts an interim budget for a calendar year it must adopt an operating budget for that year as soon as practicable after January 1.

(3) If a council does not adopt an operating budget or an interim budget before a calendar year starts

(a) the council is deemed to have adopted 1/3 of each estimate of expenditure in the immediately preceding year's operating budget, and

(b) the deemed adoption of expenditures operates as the interim budget for the first 4 months of the calendar year,

unless the council adopts an operating budget for the calendar year in the first 4 months, in which case the deemed budget is repealed and replaced by the operating budget.

184 Operating budget

(1) An operating budget or an interim budget must show the amount of each of the following estimated expenditures

(a) the amount needed to pay for council's policies and programs;

(b) the amount needed to pay the debt obligations of the municipality;

(c) the amount needed to provide for a depreciation or depletion allowance, or both, for public utilities owned by the municipality;

(d) any amount needed to recover deficiencies in revenue or to pay for over expenditures, in the 3 previous calendar years, unless otherwise directed by the Minister.

(2) An operating budget must also show the anticipated sources of revenue sufficient to pay for the estimated expenditures, divided among the amount estimated to be raised by each of the following sources:

(a) municipal taxes, other than taxes imposed under a property tax bylaw, divided into

(i) business taxes (see sections starting at 252);

(ii) special taxes (see section 257);

(iii) provincially authorized municipal taxes (see section 260), and

(iv) local improvement taxes (see sections starting at 262);

(b) grants estimated to be paid instead of municipal taxes by the Crown in right of Alberta or its agents under this or another enactment or by the Crown in right of Canada or its agents under the *Municipal Grants Act (Canada)* or another enactment of the Parliament of Canada;

(c) other grants or payments estimated to be paid by Federal, Provincial, or other governments or local authorities;

(d) amounts to be contributed from the municipality's accumulated surplus funds or reserves;

(e) all other estimated income or revenue, other than taxes under a property tax bylaw, identifying the anticipated source;

(f) taxes under a property tax bylaw (see sections starting at 225).

(3) Under subsection (1)(d) the Minister may direct, at any time, that expenditures be made or revenues be raised for such period of time as the Minister considers appropriate.

185 Capital budget

On or before April 30 each calendar year a council must

(a) adopt a capital budget for that calendar year, and

(b) prepare an estimate of capital expenditures for at least the next 3 calendar years.

186 Contents of capital budget

(1) A capital budget must include an estimate of

(a) the cost of acquiring, constructing or improving physical assets when the asset has a useful life of more than 1 year;

(b) the anticipated source of funds to pay for the capital costs of the physical assets, and

(c) if necessary, the cost of removing the physical asset after its useful life is over,

and give information about the annual operating costs and revenues associated with a physical asset.

(2) A capital budget may include the estimated cost of research or development when the research or development is in connection with something expected to have a useful life of more than 1 year.

187 Expenditure of money

(1) A municipality may only spend money if the expenditure

(a) is included in

(i) an interim budget, or deemed to be included in an interim budget,

(ii) an operating budget, or

(iii) a capital budget,

or the expenditure is made for an emergency or in extraordinary circumstances, or

(b) is legally required to be made.

(2) A council must establish procedures to authorize and verify expenditures made for emergencies or in extraordinary circumstances.

(3) When an expenditure made for an emergency or in extraordinary circumstances is authorized and verified, the operating budget is deemed to be adjusted accordingly.

188 Special reserve funds

(1) Money collected for a special purpose reserve fund

(a) must be accounted for in special accounts, and

(b) may only be spent for the purpose for which the fund was established.

(2) If the purpose of a reserve fund is fulfilled or is no longer required the council, by bylaw, may authorize the remaining funds to be used for some other purpose.

(3) A bylaw under this section must be advertised.

189 Investments

(1) A municipality may only make investments in

(a) securities issued by or guaranteed by

(i) the Crown in right of Canada or an agent of the Crown, or

(ii) the Crown in right of a Province, or an agent of the Province;

(b) debentures of a municipality, school division, school district, hospital district or regional services commission in Alberta;

(c) securities that are issued by a bank,[49] a Treasury branch, a credit union, or a trust company;[50]

(d) units in pooled funds of all or any of the investments described in clauses (a) to (c);

(e) investments or classes or types of investment authorized by the Lieutenant Governor in Council;

(f) with the prior approval of the Minister, the shares of a corporation that operates with a view to profit, and that is established or operates under

(i) the *Canada Business Corporations Act*, or

(ii) the *Business Corporations Act*.

(2) In this section "***securities***" includes bonds, debentures, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real estate or leaseholds, and rights or interests in respect of a security.

(3) Nothing in this section prevents a municipality from acquiring a share or membership in, or entering into an association with, a society, credit union, cooperative, or other non for profit entity, established under a law of Canada or Alberta;

Division 3

Borrowing

190 Borrowing power controlled

(1) A municipality may only borrow money if it is authorized to do so by bylaw and the borrowing is done in accordance with this Division.

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49 In the *Interpretation Act* "bank" is defined as "a bank named in Schedule I or II of the *Bank Act (Canada)*".

50 "credit union", "treasury branch" and "trust company" are all defined in the *Interpretation Act* by reference to the Acts under which they are established.

(2) The *Local Authorities Board Act* applies to borrowing by a municipality.[51]

191 Use of funds for capital purposes

No money

(a) borrowed by a municipality for capital purposes, or

(b) in the possession of a municipality for capital purposes,

can be spent for operating purposes unless the spending is temporary and the amount spent is available when it is needed for the capital purpose for which it was obtained.

192 Temporary borrowing for operating and capital expenditures

(1) The total amount temporarily borrowed to meet current operating expenditures of the municipality at any one time must not exceed the amount of municipal taxes imposed or estimated to be imposed for the current year.

(2) The total amount of temporary borrowing for capital purposes outstanding at any one time must not exceed:

(a) the amount of the capital budget for that and previous calendar years for which debentures have not been issued for that project minus

(b) the financing received for the capital project from any other source.

(3) Borrowing under this section does not require the approval of the Local Authorities Board and need not be advertised if the term is not for more than 3 years.

193 Borrowings needed to comply with Government or Local Authorities Board orders

A bylaw to borrow money for

51 To the extent there is any conflict between this Act and the *Local Authorities Board Act*, the LAB Act is proposed to be amended to remove the conflict.

(a) the construction of any work ordered under a law of Canada or a law of Alberta, or

(b) to pay a deficiency in a sinking fund account established in accordance with the *Local Authorities Board Act*,

does not have to be advertised.

194 Approval of the Local Authorities Board for capital purpose borrowings not repayable in the current calendar year

(1) Except as provided in this or another enactment, a bylaw which authorizes borrowing for a capital project which is not repayable in the same calendar year

(a) must be advertised, and

(b) requires the approval of the Local Authorities Board before the borrowing can be made.

(2) If a bylaw has been finally passed authorizing borrowing that is not repayable in the same calendar year and

(a) because of an increase in the cost of the capital project for which the debt is incurred the borrowing authorized by the bylaw is insufficient, and

(b) there is no change to the project,

with the approval of the Local Authorities Board the council may amend the bylaw to increase the borrowing authorized to an amount sufficient to finance the project, and the amendment does not have to be advertised.

195 Borrowing for local improvements

A bylaw to borrow money to meet the whole or any part of the costs or estimated costs of a local improvement

(a) must provide that the borrowing be repaid within the probable lifetime of the local improvement, and

(b) does not have to be advertised unless the share of the cost or

estimated cost to be borne by the municipality at large is greater than 50% of the cost or estimated cost of the local improvement.

196 Borrowing for capital projects

(1) If a bylaw is passed authorizing borrowing to pay for the cost of a capital project in the capital budget and

(a) the bylaw requires the borrowing to be repaid within 3 years, and

(b) the yearly payments of principal and interest do not exceed 10% of the municipality's previous year's revenues,

the bylaw does not have to be advertised and approval of the Local Authorities Board is not required.

(2) The aggregate of all payments for borrowing under this section must not exceed 30% of the revenues of the municipality in the previous calendar year described in the operating budget for that year.

197 Borrowing to change existing capital assets not advertised.

A bylaw for borrowing to improve, extend or replace an existing capital project or equipment need not be advertised.

198 Borrowing until financing is received

When a municipality has entered into an agreement with any other local authority or the Crown in right of Alberta or the Crown in right of Canada or their agents, the council may borrow any amount required to finance the service or activity until it receives the agreed payment but

(a) the aggregate of the amounts borrowed must not exceed the total amount that will be contributed under the agreement,

(b) payments received must be applied first to reducing the amount borrowed, and

(c) the term of the borrowing must not continue beyond the date on which the final payment under the agreement is received.

199 Redemption of debentures

A bylaw to borrow money to buy or redeem the whole or any part of the outstanding debentures of the municipality in advance of maturity does not need to be advertised.

200 Loans to and guarantees for non-profit organizations must be advertised

A bylaw to approve an agreement to lend money to or guarantee all or part of the debt of a not for profit organization for the acquisition or construction of a facility that the council considers to be of benefit to the municipality need not be advertised if the term of the loan or guarantee is for less than 3 years.

Division 4

Debenture borrowing

201 Debenture borrowing

(1) A municipality may only raise money by the issue of debentures if the debentures are authorized by bylaw.

(2) The Local Authorities Board Act applies to the issue of debentures by a municipality.

202 Requirements of debenture bylaw

A debenture bylaw must recite

(a) the amount of the debt to be created and, in general terms, the object for which it is created,

(b) the term of the debt and the amount of the annual instalments to be paid,

(c) the maximum rate of interest in figures or by reference to the rate fixed from time to time by the Alberta Municipal Financing Corporation, and whether it is to be paid annually or semi-annually, and

(d) the amount of the existing debenture debt of the municipality and whether any of the principal or interest is in arrears.

203 Other contents of debenture bylaw

(1) A debenture must be repaid within 50 years from the date of issue.

(2) The debenture bylaw must describe the means by which the debenture is to be repaid.

204 Limits of time on when debentures can be issued

No debenture can be issued more than 6 years after the date of the final passing of the bylaw authorizing the debenture issue.

205 Unexpended balance of debenture borrowing

With the approval of the Local Authorities Board, any unexpended balance of a debenture may be used for another capital expenditure.

206 Consolidation of bylaws

(1) A municipality may only consolidate the amount or part of the amount authorized under 2 or more debenture bylaws if the interest rates and term of years stated in the bylaws are the same.

(2) A municipality may only consolidate other debenture bylaws with the approval of the Local Authorities Board.

(3) A bylaw under this section does not have to be advertised.

207 Local Authorities Board countersignature

On request of a council the Local Authorities Board may countersign a debenture issued by the municipality that the Local Authorities Board approves.

208 Reproduction of seals and signatures

On a debenture

(a) the seal,

(b) the signature, and

(c) the countersignature of the Local Authorities Board

may be reproduced, and when it is, the reproduction has the same effect as if it had been personally affixed and signed.

209 Debenture register

(1) A municipality must keep a record known as the "Debenture Register".

(2) Particulars of every bylaw authorizing the issue of debentures, and of all debentures issued under them, must be entered in the Debenture Register.

210 Certificate of ownership

(1) A certificate signed by a designated officer is evidence of the registration of a debenture in the Debenture Register and may be referred to as a "certificate of ownership".

(2) A designated officer must enter in the Debenture Register a copy of

(a) certificates of ownership, and

(b) transfers of certificates of ownership.

(3) Every debenture registered in the Debenture Register is valid and binding in the hands of the municipality or of any bona fide purchaser for value despite any defect in form or substance.

(4) A debenture may provide that a transfer of ownership will not be registered in the Debenture Register until written authority has been received from

(a) an unregistered holder in the case of a bearer debenture, or

(b) the person last entered in the Debenture Register as the owner of the debenture or from that person's executor, administrator or agent

and upon receipt of the written authority the debenture must be transferred

(c) by entry in the Debenture Register, and

(d) by the designated officer issuing a transfer of a certificate of ownership to the new owner.

(5) When the signature on the written authority is certified to be the true signature by

(a) a bank, treasury branch or credit union,

(b) a member of the Investment Dealers' Association of Canada,

(c) a notary public, or

(d) any other person authorized by bylaw and approved by the Local Authorities Board,

neither the designated officer nor the municipality incurs liability to the true owner for any loss caused by the transfer in the event that the written authority was not signed by the true owner.

(6) If any interest coupons are detached from a debenture, the coupons are transferable by delivery.

211 Debenture accounts

(1) A municipality must keep separate accounts of every debt established by a debenture

(a) one in respect of the interest, and

(b) another in respect of a sinking fund established under the *Local Authorities Board Act*, or instalments of principal payable in respect of the debt.

(2) The accounts must show

(a) the purpose for which the debt was created, and

(b) the status of every debt.

212 Sinking fund

(1) If a sinking fund is to be used to redeem outstanding debentures a designated officer must maintain a separate account to be known as the "Sinking Fund Account" of the municipality.

(2) There must be paid into the sinking fund account

(a) money collected for the purposes of a sinking fund,

(b) proceeds of debentures issued to pay a deficiency in a sinking fund, and

(c) any other money that the council directs to be credited to the sinking fund.

(3) When the sinking fund account has excess money in it or is no longer required the council, by bylaw, may authorize the funds to be used for some other purpose.

(4) A bylaw under this section must be advertised.

Division 5

Annual financial statements and auditor's report

213 Annual financial statements

(1) Every municipality must prepare annual financial statements of the municipality for the immediately preceding calendar year in accordance with

(a) the generally accepted accounting principles for municipal governments established from time to time by the Canadian Institute of Chartered Accountants, and

(b) any modified or supplementary accounting standards or principles established by the Minister by regulation.

(2) The annual financial statements must be in the form prescribed by the Minister in regulations.

(3) The annual financial statements must be sent to the Minister, with the auditor's report on the statement, by

(a) July 1 for a city;

(b) July 1 for other municipalities having a population of more than 25,000;

(c) March 15 for other municipalities.

(4) The annual financial statements, or a synopsis of them, must be published or made available to the public in a manner decided by the council.

214 Auditors

Every council must appoint one or more external auditors of the municipality.

215 Access to information by auditors

(1) An external auditor appointed by the council is entitled to access at all reasonable times to

(a) the records of the municipality, and

(b) electronic data processing equipment owned or leased by the municipality,

for any purpose related to the audit.

(2) A councillor, chief administrative officer, municipal secretary, treasurer, designated officer, employee, agent of, or consultant to, a municipality, must give the auditor any information, reports, or explanations the auditor considers necessary.

(3) An external auditor who receives information from a person whose right to

disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained.

216 Auditors report

(1) Following an examination of the accounts of the municipality, the external auditor must report to the council on the annual financial statements of the municipality.

(2) The report must

(a) include a statement

(i) as to whether the auditor's examination was made in accordance with generally accepted auditing standards, and

(ii) as to whether, in the auditor's opinion, the annual financial statements present fairly the financial position of the municipality, the results of its operations, and the changes in its financial position for the year, in accordance with generally accepted accounting principles for municipal governments established by the Canadian Institute of Chartered Accountants, as modifed or supplemented, if at all, by the Minister under section 213(1)(b),

(b) when the report contains a reservation of opinion by the auditor, state reasons for that reservation and indicate the effect of any deficiency on the financial statements,

(c) include any other comments related to the audit of the financial statements that the auditor considers appropriate, and

(d) state when information, reports and explanations required were not provided.

(3) In addition, the Minister or the council may require any further examination and report from the auditor that is considered necessary.

PART 8

MUNICIPAL TAXATION

217 Definitions

In this Part

"***assessment roll***" means the information given to a municipality by the Alberta Assessment Authority under the *Property Assessment Act*;

"***assessed value***" has the same meaning as it has in the *Property Assessment Act*;

"***energy lines***" means

(a) pipelines as defined in the *Property Assessment Act*;

(b) works and transmission lines as defined in the *Property Assessment Act*;

(c) AGT Commission property as defined in the *Property Assessment Act*;

(d) "systems" and "telecommunications" as defined in the *Telecommunications Act*;

"***improvements***" has the same meaning as it has in the *Property Assessment Act*;

"***operating budget***", "***interim budget***" and "***capital budget***" mean respectively the budget or budgets adopted by a council in accordance with Part 7;

"***tax rate*** means the unit of measurement, or the value expressed in relation to a dollar, prescribed by a municipal tax bylaw.

Division 1

Liability to, and exemptions from, property taxation

218 Liability of land to property tax under property tax bylaws

All land in a municipality is liable to taxation by a property tax bylaw unless

(a) the land is exempt from taxation under Division 2, Sub-Division 1 (see section 227), or exempt under another enactment, or

(b) it is land for which a grant instead of property taxes must be made under Division 2, Sub-Division 2 (starting at section 234).

219 Liability of improvements to property tax under property tax bylaws

All improvements in a municipality are liable to taxation by a property tax bylaw unless

(a) an improvement is exempt from taxation under Division 2, Sub-Division 1, or exempt under another enactment, or

(b) it is an improvement for which a grant instead of taxes may be made under Division 2, Sub-Division 2 (starting at section 234).

220 Liability of energy lines to property tax under property tax bylaws

All energy lines in a municipality are liable to taxation by a property tax bylaw, unless the energy line is exempt from taxation under Division 2, Sub-Division 1, or exempt under another enactment.

221 Liability of business to taxation under business tax bylaws

All businesses operating in a municipality are liable to taxation by a business tax bylaw unless the business is exempt from taxation under section 253, or exempt under another enactment.

222 Special tax

All land and improvements in a municipality are liable to taxation by a special tax bylaw unless

(a) the land and improvements are exempt from taxation under Division 2, Sub-Division 1; or

(b) they are land or improvements for which a grant instead of tax may be paid under Division 2, Sub-Division 2.

223 Provincially authorized municipal taxes

All persons, land, improvements, energy lines and activities in a municipality are liable to taxation by bylaw in accordance with regulations made by the Lieutenant Governor in Council under section 260 if the council is authorized to impose a provincially authorized municipal tax under that section.

224 Local improvement tax

All land in a municipality is liable to taxation by a local improvement tax bylaw unless

(a) it is land for which a grant instead of tax may be paid under Division 2, Sub-Division 2, or

(b) it is exempt from local improvement tax under section 263.

Division 2

Property tax bylaw

225 Application

This Division applies to taxation of land, improvements and energy lines by a property tax bylaw.

226 When taxable property is partly exempt

If part of taxable property is exempt from taxation, the rest of the property is taxable, and the taxes are a charge against all of the property.

Sub-Division 1

What is exempt from taxation under a property tax bylaw?

227 Property which is not assessed is exempt from tax under a property tax bylaw

Property exempt from assessment under the *Property Assessment Act* cannot be taxed under a property tax bylaw.

228 Property exempt from property tax under a property tax bylaw because of the way it is used

The following property cannot be taxed under a property tax bylaw:

(a) land and improvements owned by

(i) the board of trustees of a school district or school division, or

(ii) the operator of a private school registered under the *Department of Education Act*,

that is used only for educational purposes;

(b) land and improvements owned by a religious body that is used chiefly for

(i) divine worship,

(ii) public worship, or

(iii) religious education,

and land that is used exclusively as a parking area in connection with the worship or education;

(c) land and improvements used or intended to be used exclusively for burial purposes or as a cemetery;

(d) land and improvements

(i) used for hospital purposes, or in connection with a hospital, that are owned by the board of directors of a hospital district that receives financial assistance from the Crown in right of Alberta under any Act, or

(ii) operated as a student nurses residence, but not including other nurses' residences, or land and improvements used for parking;

(e) land and improvements owned by a library board established under the *Libraries Act* that are used chiefly for library purposes;

(f) a waterworks supply, waterworks distribution system and water metering facilities used chiefly to provide domestic water supply service, and systems used to treat and dispose of domestic sewage;

(g) a water conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat water to meet municipal standards, but not including anything designed and used for

(i) the further treatment of the water supply to meet specific water standards for a manufacturing or processing operation;

(ii) water reuse;

(iii) fire protection;

(iv) the production or transmission of a natural resource;

(h) a sewage conveyance system operated in connection with a manufacturing or processing plant,

(i) including any facilities designed and used to treat and dispose of normal domestic sewage, but

(ii) not including anything designed and used for treatment of

other effluent from the manufacturing or processing operation;

(i) land and improvements owned and operated by a not for profit organization while used chiefly to provide living accommodation for senior citizens or persons suffering from a physical or mental disability;

(j) land and improvements owned by a foundation established under the *Senior Citizens Housing Act* or operated by a not for profit organization under section 12 of that Act, while used chiefly to provide living accommodation for senior citizens;

(k) land and improvements

(i) owned by an irrigation district, or

(ii) used or intended to be used exclusively for water conservation or flood control,

but not including any portion of land or improvements used or intended to be used to produce electric power or for residential purposes.

229 The Crown, and other people or bodies exempt from property tax

(1) A right, title or interest of the Crown cannot be taxed under a property tax bylaw.

(2) The following land and improvements cannot be taxed under a property tax bylaw:

(a) land and improvements owned by

(i) the board of governors of a university under the *Universities Act*,

(ii) the board of governors of a technical institute under the *Technical Institutes Act*,

(iii) the board of governors of a public college under the *Colleges Act*, and

(iv) the governing body of an educational institution affiliated with a university under the *Universities Act*,

except for land and improvements used for residential purposes;

(b) land and improvements owned by

(i) a students' union of a university,

(ii) a graduate students' association of a university,

(iii) a students' association of a technical institute, or

(iv) a students' association of a public college,

except for property used for residential purposes;

(c) energy lines forming part of a gas distribution system the majority of whose customers reside in

(i) a county, municipal district, improvement district or special area, or

(ii) a hamlet, village, summer village, town, new town, or a school district having power to levy taxes under the *School Act*, with a population of less than 500,

but not including those parts located in a city, or a community described in subclause (ii) with a population of 500 or more.

230 Conditionally exempt land and improvements[52]

(1) The following classes of land and improvements can, by bylaw, be partly or completely exempted from taxation under a property tax bylaw:

(a) land owned or leased from the Crown or a municipality by a not for profit organization, and any improvements on it, used chiefly for

(i) a charitable, educational, religious, benevolent or welfare purpose that is to the general community advantage or

52 An additional provision may be needed to deal with section 93(13) of the *Municipal Taxation Act*.

benefit,

(ii) community games, sports, athletics or recreation or other similar activities,

(iii) a senior citizen centre, or

(iv) a recreation camp;

(b) land and improvements used for a nursing home administered under the *Nursing Homes Act*;

(c) land and improvements owned and used by an agricultural society organized or formed under the *Agricultural Societies Act*;

(d) land and improvements owned or leased by and used exclusively for the Canadian Youth Hostel Association if they are not operated for profit or gain;

(e) land and improvements owned or leased from the Crown and used chiefly for a branch or local unit of the Royal Canadian Legion, the Army, Navy and Air Force Veterans in Canada or other organization of former members of the armed forces approved by the Minister;

(f) land and improvements owned or occupied by lease or license from the Crown or a municipality and used chiefly for Ducks Unlimited (Canada);

(g) land and improvements exempt from taxation by an order of the Local Authorities Board under section 231.

(2) The land and improvements described in subsection (1) are exempt from taxation under a property tax bylaw in respect of

(a) the requisitions for health, education and other services under section 241(1)(a), and

(b) any other purpose for which a municipality becomes liable to pay under this or another enactment or by an agreement (see section 241(1)(c)),

unless section 233 applies.[53]

231 Local Authorities Board exemptions

(1) A not for profit organization may apply to the Local Authorities Board for an order declaring land or improvements, or both, exempt from taxation under a property tax bylaw if

(a) the organization

(i) owns the property,

(ii) leases the property from the Crown, or

(iii) owns the property and leases the property to another not for profit organization,

and

(b) the land or improvements, or both,

(i) are used chiefly for a charitable, educational, religious, benevolent or welfare purpose that is to the general public advantage or benefit, and

(ii) are liable to taxation under a property tax bylaw.

(2) An order of the Local Authorities Board is not effective unless it is approved by the Lieutenant Governor in Council.

232 Exemptions under a private Act

(1) Even though land or improvements are exempt from municipal tax under a private Act, they may be taxed under a property tax bylaw if council, by bylaw, specifically so declares.

(2) Subsection (1) applies despite any private Act and regardless of whether the private Act is passed before or after this Act comes into force.

53 Section 233 relates to the taxation of licensed premises wherever they are located.

233 Licensed premises are taxable

If an improvement or any part of it is licensed under the *Liquor Control Act* it is liable to property tax for all purposes even though it is included in an improvement that is exempt under this Part.

Sub-Division 2

When are grants instead of property taxes paid by the Crown?

234 Grants

(1) The Minister of Public Works, Supply and Services must make grants to a municipality in respect of land or improvements, or both, owned by the Crown on the application each year of the municipality in which the property is situated.

(2) A grant to a municipality under this section must equal the amount that would be recoverable by the municipality if the land and improvements owned by the Crown within the municipality were subject to a property tax bylaw, special tax bylaw and local improvement tax bylaw for that year.

(3) No grant is payable under this section with respect to the following land and improvements in a municipality:

(a) land and improvements forming part of an undertaking in respect of the conservation, irrigation, reclamation, rehabilitation or reforestation of land;

(b) parks or museums;

(c) land and improvements used for or in connection with academic, trade, forestry or agricultural schools, colleges or universities;

(d) land and improvements used for or in connection with hospitals and mental institutions;

(e) land and improvements used for or in connection with a forestry tower that is not accessible by road;

(f) land held under a crop share homestead lease that is exempt from

assessment and taxation under the *Crown Cultivation Leases Act*;

(g) environmental reserves, municipal reserves, school reserves, municipal and school reserves, and other undeveloped properties reserved for municipal utilities or services;

(h) roadside camps and picnic grounds;

except buildings used for residential purposes and land used in connection with those buildings.

(4) No grant is payable under this section with respect to

(a) land and improvements owned by an agent of the Crown in right of Alberta in respect of which another enactment provides for payment of a grant instead of municipal taxes;

(b) land or improvements, or both, or a class of them, exempted by the Lieutenant Governor in Council by regulation, but a regulation under this clause or any amendment to it is only effective if it is passed at least 3 months before the start of the calendar year in which it is to have effect, although once passed it continues in effect until it is amended or repealed.

235 Sharing grants that are paid instead of taxes

(1) A municipality may agree with

(a) any other municipality, or

(b) a school district designated under Part 6, Division 5 of the *School Act*,

to share municipal taxes or grants instead of taxes paid by the Crown in right of Alberta or Canada or an agency of either of them.

(2) The agreement must include a means to settle disputes arising from the agreement.

236 Business Revitalization Zone grants

(1) The Minister must make grants to municipalities with respect to land and

improvements owned by the Crown in right of Alberta situated within a Business Revitalization Zone designated by the municipality under Schedule 4 or a predecessor Act.

(2) A grant to a municipality under this section must not exceed the amount that would be recoverable by the municipality if the Crown land and improvements in the Business Revitalization Zone was subject to a revitalization tax under Schedule 4.

Sub-Division 3

Property tax bylaw

237 Property tax bylaw is compulsory

(1) Each year a council must pass a property tax bylaw fixing one or more tax rates.

(2) The property tax bylaw must raise sufficient revenue for the municipality

(a) to collect the estimated property tax revenue shown in the operating budget, and

(b) to pay the requisitions for health, education and other services described in section 241.

(3) A council cannot amend a property tax bylaw on or after the date on which tax notices are mailed.[54]

238 How is property tax calculated?

The tax payable in respect of each taxable property shown on the assessment roll is:

the tax rate in respect of the taxable property fixed by the property tax bylaw	X	the assessed value of the taxable property

54 See s298.

239 Creating split tax rates

If a council has passed a bylaw under the *Property Assessment Act* creating classifications or sub-classifications of land or improvements, or land and improvements, the council may in its property tax bylaw, establish a uniform property tax rate for each classification or sub-classification of them.

240 Rules for imposing split tax rates

(1) If different property tax rates are to be imposed on different classifications or subclassifications of land or improvements, or both, they must comply with these rules:

(a) no tax rate for any class of residential property can be higher than any tax rate for land or improvements that is not residential property;

(b) in a municipal district, county, improvement district or special area, a tax rate applicable to residential property must not be less than 75% of the tax rate applicable to farm land or non-residential property in the municipality used for the same purpose.

(2) If a property tax rate does not comply with this section it is of no effect.

(3) In this section "***farm land***" and "***residential property***" have the same meaning that they have in the *Property Assessment Act*.

241 Requisitions

(1) Money raised by a property tax bylaw must be sufficient to pay

(a) the requisitions of hospital districts under the *Hospitals Act*, ambulance districts under the *Ambulance Services Act* and school districts or school divisions under the *School Act*,

(b) the requisitions of the Government of Alberta under the *School Act*, the amount payable to the Alberta Planning Fund under section 10 of the *Planning Act*, and the requisition of the Alberta Assessment Authority under the *Property Assessment Act*, and

(c) other sums that a municipality may become liable to pay under this or other enactments or an agreement,

unless subsection (2) applies.

(2) When a requisition applies to only part of a municipality the revenue to be raised to meet the requisition may only be raised in that part of the municipality to which the requisition applies, subject to subsection (3).

(3) Despite subsection (2),

(a) a council may authorize a uniform property tax rate on all land and improvements in the municipality, even though the requisition applies to only part of the municipality, sufficient to produce the combined requisitions of all hospital districts and ambulance districts that requisition the municipality, and

(b) a property tax rate applicable to energy lines must be at a uniform rate throughout the municipality.

242 Special provisions applying to the property tax bylaw

Despite anything in this Division, a property tax bylaw

(a) may specify a minimum amount that is payable as a property tax for a parcel of land or fraction of a parcel instead of any amount that would otherwise be payable under the bylaw, and

(b) may combine into one rate or separate into different rates the taxes to be imposed and that are payable by public school supporters and separate school supporters.

243 Requisition adjustments

If in a previous calendar year the sums raised

(a) as requisitions under section 241(1)(a) or (b), or

(b) for other sums referred to in section 241(1)(c),

exceeded or were insufficient to meet the requisitions or payments required, the council must deduct from or add to the requisition or

required payment for the current year the excess or the deficiency, as the case requires.

244 Supplementary property tax

(1) If the Alberta Assessment Authority makes a supplementary assessment in any year a council by bylaw, may impose a supplementary property tax on the improvement or energy lines included in the supplementary assessment roll.

(2) The supplementary property tax is to be calculated as follows:

$$\frac{\text{Supplementary assessment} \times \text{applicable tax rate for the calendar year} \times \text{number of months improvement or energy line occupied or used}}{12}$$

(3) The provisions in this Act about tax notices apply to supplementary property tax.

Sub-Division 4

Liability to pay property tax and supplementary property tax

245 Who is liable to pay property tax?

The person liable to pay property tax or supplementary property tax imposed on taxable property is

(a) the person shown as the owner of the property on the assessment roll, or

(b) any subsequent purchaser of the property,

unless sections 246 to 250 apply.

246 Special rules about who is liable to pay property and supplementary property tax

(1) The person who occupies land under a lease, license or permit from the Crown or a municipality is liable to pay tax imposed under a property tax bylaw.

(2) Subsection (1) does not apply to a person who

(a) holds the lease, license or permit in an official capacity on behalf of the Crown or a municipality, or

(b) holds the land under a forest management license or a forest management lease.

247 Well sites

(1) A person who occupies a well site under a lease, license or permit from the Crown is liable to pay the tax imposed on the well site under a property tax bylaw.

(2) A person in possession of improvements related to

(a) working minerals, or

(b) drilling for or operating a well for oil, salt or natural gas,

is liable to pay the tax imposed in respect of the improvements under a property bylaw.

248 Surface rights orders

A person who occupies Crown land or any other land under a right of entry order under the *Surface Rights Act* is liable to pay the tax imposed in respect of the right under a property tax bylaw.

249 Pipelines

The operator of a pipeline under a lease, agreement or license is liable to pay the tax imposed on the pipeline under a property tax bylaw.

250 Occupiers of energy line easements

The occupier of an easement or right of way in order to operate an energy line is liable to pay the tax imposed in respect of the easement or right of way under a property tax bylaw.

251 Property tax agreements with franchise holders

(1) Instead of imposing a tax under a property tax bylaw on land, improvements and energy lines used in connection with an agreement to provide a public utility under section 168[55] or other service or benefit specified by council, a municipality may make a tax agreement with the provider.

(2) The tax agreement may provide that

(a) the municipality accepts payment of an amount equal to a fixed percentage of the gross revenue of the public utility, and

(b) payment of the sum is accepted in payment of the property tax otherwise payable under a property tax bylaw.

(3) Under subsection (2), the gross revenue of a public utility which supplies natural gas for a year is the aggregate of

$$gr + (qu.ns \times vpu)$$

where:

"***gr***" is the gross revenue of the public utility for the year;

"***qu.ns***" is the quantity of natural gas in respect of which transportation service was provided during the year by means of the natural gas distribution system of the provider of the public utility;

"***vpu***" is the deemed value per unit quantity of natural gas determined by the Public Utilities Board for that year for the natural gas in respect of which transportation service was so provided.

55 Section 168 relates to exclusive and other rights to provide public utilities.

(4) An agreement under this section is of no effect unless it is approved by the Public Utilities Board.

Division 3

Business taxation

252 Application

This Division applies to the taxation of businesses by municipalities.

253 Exemptions from business taxation

(1) When machinery, equipment, appliances or other things

(a) used for or in manufacturing or processing,

(b) used for the production of natural resources or for the transmission of natural resources, or

(c) used for transmitting or receiving communication signals for public resale

are subject to tax under a property tax bylaw in any year[56] no business tax can be imposed in that year against the owner or occupier of the premises on which any of the property is situated.

(2) If the machinery, equipment, appliances or other things described in subsection (1) is not used for the chief business of the owner or occupier of the premises on which they are situated, the owner or occupier must be assessed in relation to the chief business carried on by the owner or occupier on the premises.

(3) Except in a city, town, new town, village or summer village, no business tax may be imposed relating to the business of raising or producing crops, livestock or poultry, or in connection with fur production or beekeeping.

56 An additional exemption may need to be added to the list in this section similar to section 93(13) of the *Municipal Taxation Act*.

(4) When an energy line is assessed under the *Property Assessment Act* no business tax can be imposed on the owner or occupier of premises on which an assessed energy line is located, except for occupied office or warehouse premises.[57]

254 Contents of business tax bylaw

(1) A council may pass a business tax bylaw and, if it does, must describe the basis of the business tax and

(a) prescribe the rate per unit of floor space or the rate per unit of storage capacity[58], or

(b) the uniform percentage to be applied to the assessed value of improvements assessed for property tax purposes under the *Property Assessment Act*, or

(c) the uniform rate under clause (a) or (b) to be applied to a particular classification or subclassification of business established under the *Property Assessment Act*.

(2) A business tax bylaw continues in effect from year to year until it is amended or repealed, but an amendment or repeal is not effective unless it is amended or repealed before May 1 in a subsequent calendar year.

255 Imposition of the supplementary business tax

If a business has been the subject of a supplementary business assessment under the *Property Assessment Act* the council of the municipality in which the business carries on operations may impose a supplementary business tax

(a) on each person who carries on a business for a temporary period or commences business after the final revision of the business assessment roll and whose name is not entered on that roll,

(b) on each person moving into new premises or opening new premises or branches of an existing business after the final revision of the

57 This subsection follows the exemption in section 16 of the *Electric Power and Pipeline Assessment Act*.

58 The basis of assessment will be decided under the *Property Assessment Act*.

business assessment roll, even though the person's name is entered on that roll, and

(c) on each person who commences business before the final revision of the business assessment roll, but whose name is omitted from that roll.[59]

256 Who must pay business tax?

The person shown on the business assessment roll as the person liable to pay business taxes must pay the business taxes and supplementary business taxes liable to be paid.[60]

Division 4

Special taxes

257 Special tax bylaw

(1) Each calendar year council may pass a special tax bylaw to raise revenue to pay for a specific service or purpose in a particular area of the municipality.

(2) The special tax bylaw must

(a) state the specific service or purpose for which the bylaw is passed,

(b) describe the area or areas that will benefit from the service or purpose, and

(c) state the estimated cost of the service or purpose for the calendar year.

(3) The special tax bylaw must also

(a) state the unit of assessment or the per parcel of land, per unit of frontage or per unit of area basis on which the tax rate is to be

59 It may be necessary to add s90(2) of the *Municipal Taxation Act* - allowing license fees.

60 Issues of joint and several liability may need to be included. Compare s110(1) of the *Municipal Taxation Act*.

based, and

(b) describe the means by which the tax is to be calculated.

(4) No special tax bylaw can be passed unless the estimated cost of the specific service or purpose for which the tax is imposed is included in the operating budget as an estimated expenditure.

258 Advertising special tax bylaw

(1) A special tax bylaw must be advertised.

(2) Only those persons who would be liable to pay the special tax if it were imposed are entitled to petition against the bylaw.

259 Application of revenue from a special tax bylaw

(1) The revenue collected under a special tax bylaw must be applied to the specific service or purpose for which it was raised.

(2) If there is any excess revenue the municipality must advertise the use to which it proposes to put the excess revenue.

Division 5

Provincially authorized municipal taxes

260 Provincial authorization

(1) On the request of the Minister the Lieutenant Governor in Council may make regulations

(a) authorizing a municipality to impose a form or system of taxation, and

(b) stating the purpose for which revenue raised by the taxation is to be used.

(2) Before making a request the Minister must consult with the Presidents of the relevant municipal associations about the request.

(3) If regulations are made, the Minister may then make regulations[61]

(a) governing the assessment, imposition and collection of the tax;

(b) respecting the giving of assessment notices and providing for appeals;

(c) applying all or any of the sections of this Act dealing with municipal taxation, with or without modification or substitution;

(d) respecting any matter incidental to the imposition and collection of the tax, including the disposition or use of excess revenue.

(4) A regulation under this section may relate to one or more municipalities or geographic areas of Alberta, or to the whole Province.

261 Application of revenue from provincially authorized municipal taxes

The revenue collected under a provincially authorized municipal tax must be applied to the purpose for which it was authorized to be raised.

Division 6

Local improvement taxes

262 Purpose

In order to pay for or to finance a local improvement, this Division provides a way to tax a particular locality or particular residents.

61 Regulations under this section will replace the existing provision for well drilling tax and mobile unit taxation. The section allows taxing authority to be expanded and kept up to date by regulation.

Sub-Division 1

Exemptions from local improvement tax

263 Sanitary, storm sewage and water main exemptions

(1) If a sanitary or storm sewer or water main is constructed along a road or place

(a) along which it would not have been constructed except to reach some other area of the municipality, or

(b) in order to provide capacity for future development,

and the existing sanitary and storm sewers and water mains are sufficient for the existing development in the area, the parcels of land abutting the road or place are exempt from local improvement tax, until the land is served by the sanitary or storm sewer or water main, at which time the local improvement tax may be imposed at the rates originally set out for the local improvement.

(2) If the sanitary or storm sewer or water main replaces an existing facility and the parcels of land are connected to it for that reason, the exemption may be for the total amount of the local improvement tax or for that portion which in the opinion of the council is fair.

(3) If a local improvement tax is being paid for a sanitary or storm sewer or water main which the new facility replaces,

(a) the current local improvement tax must be suspended and the outstanding balance may be added to the cost of the new facility, or

(b) the parcels of land against which the existing tax is imposed must be exempted from the local improvement tax for the new facility.

264 Limitation on local improvement tax

A local improvement tax must not be levied on a parcel of land in a calendar year for more than one sanitary sewer, one storm sewer and one water main.

265 Municipal liability for certain local improvement taxes

(1) Land which is exempt from local improvement tax under a general or special Act must still be included for purposes of calculations under this Division.

(2) Local improvement taxes in respect of exempt land described in subsection (1) must be paid by the municipality, unless the owner of the land agrees to pay them.

Sub-Division 2

Preliminary planning for a local improvement

266 What is a local improvement?

A local improvement is a project, purchase, structure, work or other undertaking which in the opinion of the council is of greater benefit to the area in which it is undertaken than it is to the whole municipality.

267 Who can propose a local improvement?

The proponents of a local improvement proposed to be paid by a local improvement tax can be only

(a) a council, or

(b) a group of taxpayers who would be subject to a local improvement tax if the local improvement was completed.

268 What preliminary planning is required?

(1) The proponents of a local improvement proposed to be paid by a local improvement tax must prepare a local improvement plan.

(2) If the proponents are taxpayers the municipality may agree to prepare the local improvement plan on their behalf.

269 What must a local improvement plan contain?

(1) A local improvement plan must

(a) contain a description of the nature and location of the proposed local improvement,

(b) identify

(i) the parcels of land that would be subject to the local improvement tax,

(ii) the persons liable to pay the proposed local improvement tax, and

(iii) the persons who will be exempt from the proposed local improvement tax,

(c) describe the nature of the unit of measurement of the parcels of land in respect of which the tax rate will be imposed,

(d) include an estimate of the total cost of the local improvement,

(e) state the period over which the local improvement will be financed or paid,

(f) state the portion of the estimated costs of the local improvement proposed to be paid

(i) by the municipality, and

(ii) by the local improvement tax, and

(g) include any other information the proponents of the local improvement plan consider necessary.

(2) The cost of a local improvement may include

(a) the actual cost of buying land or property necessary for the local improvement,

(b) the capital cost of the local improvement,

(c) professional services needed for the local improvement, and

(d) other expenses incidental to the local improvement and raising money to pay for it.

Sub-Division 3

Council adoption of a local improvement plan

270 Circumstances leading to the adoption of a local improvement plan

(1) A council may

(a) on its own initiative adopt a local improvement plan (see section 273), or

(b) after receipt of a sufficient petition for a local improvement, adopt a local improvement plan (see section 278).

(2) A local improvement plan adopted by council on its own initiative can be the subject of a counter petition.

Rules about petitions relating to local improvements

271 Petitioning rules

(1) The rules about petitions in sections 13-18 apply to petitions under this Division except as they are modified by this section.

(2) Only owners who would be liable to pay a local improvement tax if it were imposed may petition the council under this Division.

(3) A petition is a sufficient petition if

(a) it is filed with the chief administrative officer on time,

(b) it is signed by 2/3 of the owners who would be liable to pay a local improvement tax if the local improvement plan were implemented, and

(c) the owners who sign the petition represent at least 1/2 of the assessed value of the parcels of land in respect of which the tax is

to be imposed, and

(d) the petition meets the other requirements for petitions.

(4) If a corporation, church, organization, estate or other entity is entitled to sign a petition under this Division, the petition may be signed on its behalf by a person who

(a) is its representative,

(b) is at least 18 years old, and

(c) has and produces on request a certificate authorizing the person to be its representative,

(i) from the head office, or the principal office in Alberta, of a corporation,

(ii) from the local governing body of a church or other organization,

(iii) from the executor or administrator of the estate, or

(iv) from a responsible person controlling or administering the entity.

272 Withdrawal of petitioning rights

(1) If a municipality, school division, school district or hospital district is entitled to sign a petition under this Division, it may give notice to the council

(a) at the time the petition is presented to the council, or

(b) within 14 days of the last delivery or mailing of the notice notifying persons that a local improvement will proceed unless a petition is received,

that its name and the assessed value of its land is not to be counted in determining the sufficiency of the petition, and council must comply with the notice.

(2) A notice under subsection (1) does not relieve the municipality, school division, school district or hospital district from liability to pay a local improvement tax subsequently imposed on it.

Local improvement plan subject to a counter petition

NOTE TO READER: The process by which council initiates a local improvement plan which is subject to a counter petition, and the subsequent steps, is shown diagrammatically on this page.

Preparation of local improvement plan (lip), public comment and meetings
Council on its own initiative adopts lip
Notice mailed to affected taxpayers
No counter petition or insufficient petition received
Sufficient counter petition received by chief administrative officer
lip discontinued
by 2/3 vote of whole council application made to LAB to order lip to proceed
by 2/3 vote of whole council order lip to proceed if it is for
- water/sewer, roads or public facilities in a newly developing area
LAB can refuse application
LAB can agree to application
LAB can refer application back to council
Council can proceed to implement lip and impose local improvement tax within the next 3 calendar years

273 Notice of local improvement plan adopted on council's initiative

(1) After council, acting on its own initiative, has adopted a local improvement plan the municipality must mail a notice of the adoption to the persons who would be liable to pay the proposed local improvement tax under the plan.

(2) The notice must

(a) include all of the information contained in the adopted local improvement plan, or a summary of it,

(b) state the estimated annual amounts payable by the owner as a local improvement tax, and

(c) describe the procedure for preparing and filing a sufficient petition against the adopted plan.

274 What happens if no counter petition or an insufficient one is received?

If, within 21 days of the date the last notice of the adoption of a local improvement plan is mailed,

(a) no petition opposing the local improvement plan is received by the chief administrative officer, or

(b) an insufficient petition is received by the chief administrative officer,

the council may implement the local improvement plan and impose the local improvement tax at any time within the next 3 calendar years after it is adopted.

275 Counter petition

If the chief administrative officer of a municipality receives a sufficient petition opposing the adopted improvement plan within 21 days of the date the last notice is mailed under section 274, the council may

(a) discontinue the plan completely, or for that calendar year, but may reconsider the plan and vote on it again in a later calendar year,

(b) by a vote of at least 2/3 of the whole council in favour, apply to the Local Authorities Board for an order to proceed with the plan despite the petition, or

(c) order the plan to proceed if at least 2/3 of the whole council are in favour of it and the local improvement is to construct water or sewer facilities, or roads or other public facilities, in a newly developing area of the municipality.

276 Local Authorities Board decision

(1) When it receives an application for an order to proceed with a local improvement plan despite a petition opposing the plan, the Local Authorities Board must consider

(a) whether, in all the circumstances, the plan is sound;

(b) whether the local improvement is necessary or required;

(c) whether the plan is, in all the circumstances, a fair one to approve.

(2) The Local Authorities Board may hold any meetings or hearings or make any investigation it considers appropriate before making its decision.

(3) The Local Authorities Board may

(a) refuse the application,

(b) order the local improvement plan to proceed, or

(c) refer the plan back to the council with recommendations for change.

277 Decisions overriding petition

(1) If, despite a petition opposing a local improvement plan, the plan is

(a) ordered to proceed by the Local Authorities Board, or

(b) ordered to proceed by the council,

the council may implement the plan and impose the local improvement tax

at any time within the next 3 calendar years after it is ordered to proceed.

(2) After a local improvement plan is ordered to proceed despite a petition opposing it there must be mailed to the taxpayer affected a notice that the plan is proceeding.

(3) A copy of the local improvement plan ordered to proceed must also be sent to the Alberta Assessment Authority.

Local improvement plans initiated by petition

278 Petition for a local improvement plan

(1) If a council receives a sufficient petition[62] requesting the adoption of a local improvement plan the council may proceed to implement the plan and impose a local improvement tax at any time within the next 3 calendar years after it is adopted.

(2) After a local improvement plan initiated by petition is adopted there must be mailed to the taxpayers affected a notice that the plan is proceeding.

(3) A copy of the local improvement plan adopted under this section must also be sent to the Alberta Assessment Authority.

Sub-Division 4

Local improvement tax

279 Local improvement tax bylaw

(1) A council may pass a local improvement tax bylaw in respect of each local improvement plan.

(2) The local improvement tax bylaw must

(a) raise sufficient revenue to pay for the cost or a portion of the cost of a local improvement in accordance with the local improvement

62 The rules for 'sufficient' petitions are in section 271 and sections 13-18.

plan over a period not exceeding the probable lifetime of the local improvement, and

(b) provide for equal payments during each year in that period.

(3) The local improvement tax must be raised by the imposition of a uniform tax rate for each unit of measurement of a parcel of land.

280 How is local improvement tax calculated?

(1) The local improvement tax payable in respect of each parcel of land shown on the local improvement assessment roll is:

(the unit of measurement assigned to the parcel) X (tax rate per unit of measurement)

(2) The council by bylaw may fix a uniform tax rate based on estimated average costs throughout the municipality for any type of work undertaken as a local improvement and that rate applies whether the actual cost of any work was greater or lesser than the uniform rate.

(3) If some parcels of land in respect of which a local improvement tax is proposed appear to call for a smaller or larger proportionate assessment because they are, for example, corner lots or differently sized or shaped than other parcels, the exceptional parcels can be assessed so that they will bear a fair portion of the local improvement tax.

281 Portion of local improvement payable by municipality

(1) A council by bylaw passed by a 2/3 majority of the whole council may provide that the municipality pay that part of the cost of a local improvement which the council considers to be of benefit to the whole municipality.

(2) If financial assistance is provided to the municipality by the Crown in right of Canada or the Crown in right of Alberta to undertake a local improvement, the council must apply the assistance to the cost of the local improvement.

(3) The cost of a local improvement must be reduced by the amounts described in subsections (1) and (2) for purposes of calculating the revenue to be raised by the imposition of the tax rate.

282 Who is liable to pay local improvement tax?

The person liable to pay a local improvement tax is the owner of the land on which the tax is imposed.

Local improvement tax notices

283 Local improvement tax roll

(1) If a municipality imposes a local improvement tax it must establish and maintain information in sufficient detail to show

(a) who is liable to pay the tax,

(b) the land being taxed,

(c) the name of the tax,

(d) the amount of the tax for the current calendar year,

(e) the amount of any arrears of local improvement taxes and the local improvement tax outstanding for the current year, and

(f) any other information that the council may direct to be included.

(2) A record of each annual payment of a local improvement tax must be entered on the local improvement tax roll for the year in which it is payable.

284 Paying off a local improvement tax

The owner of land liable to pay a local improvement tax may pay off the outstanding balance payable in respect of the parcel at any time.

285 When can a local improvement be started?

(1) A local improvement may be started and the necessary bylaws passed and debentures issued either before or after the actual cost of it has been

finally determined.

(2) When a local improvement plan has been finally adopted and the local improvement

(a) has not been started, or

(b) has been started but is not complete,

the local improvement tax may be collected for 1 year, after which the tax must be suspended until the local improvement has been completed or is operational.

286 Gift of land

(1) If a local improvement requires buying land, a council may agree with the owner of land that in consideration of

(a) the dedication or gift of the land required, or

(b) a release of or reduction in the owner's claim for compensation,

the remainder of the owner's land is exempt from all or part of the local improvement tax that would otherwise be imposed in respect of the local improvement.

(2) The local improvement tax roll must be prepared in accordance with an agreement under this section despite anything to the contrary in this Act.

287 Variation of local improvement tax following a subdivision

(1) If there is

(a) a subdivision affecting a parcel of land, or

(b) a division or consolidation of 2 or more parcels of land,

in respect of which a local improvement tax is payable, the council, with respect to future years, must revise the local improvement tax so that each of the new parcels of land will bear an appropriate proportion of the tax.

(2) If

(a) there is a change in a plan of subdivision affecting an area which had not previously been subject to a local improvement tax, and

(b) the council is of the opinion that as a result of the change the new parcels do receive a benefit from the local improvement,

the council, with respect to future years, may revise the local improvement tax and apply the revised rate to both the existing and new parcels so that each benefitting parcel will bear an appropriate proportion of the local improvement tax.

288 Variation of local improvement tax after receipt of other financial assistance

(1) If, after a local improvement tax rate has been imposed, the council

(a) receives financial assistance from the Crown in right of Canada or the Crown in right of Alberta or other sources greater than,

(b) refinances the debt created to pay for the local improvement at an interest rate lower than,

the sum estimated when the local improvement tax rate was set, the council, with respect to future years, may revise the rate so that each benefitting parcel bears an appropriate share of the actual cost.

(2) If, after the local improvement tax rate has been set, an alteration is necessary, following an appeal under the *Property Assessment Act*, that is sufficient to reduce or increase the proceeds of the tax in any year by more than 5%, the council, with respect to future years, may revise the rate so that the tax rate bylaw will produce the revenues originally anticipated for those years.

Division 7

Petitions for public works in a hamlet

289 Petition requirements

(1) The owners of land in a hamlet may petition the council of a municipal

district to spend at least 50% of the taxes collected by the municipal district in the preceding calendar year under the property tax bylaw on public works in the hamlet.

(2) A petition is sufficient if it

(a) is received by the chief administrative officer of the municipal district before March 1 in a calendar year,

(b) is signed by a majority of the owners residing in the hamlet, and

(c) meets the other requirements of this Act for petitions.[63]

(3) On receipt of a sufficient petition the municipal district must comply with the petition.

(4) If a petition described in subsection (1) is received after March 15 in a calendar year, but is otherwise sufficient, the council must either comply with the petition in that year or in the next calendar year.

290 Agreement to delay public work in a hamlet

(1) When a municipal district is required to make expenditures in accordance with section 289 it may make an agreement with representatives of the petitioners to postpone the expenditure so that it can be spent on a particular public work.

(2) If an agreement is made under subsection (1), the agreement applies in place of the requirement under section 289(3).

291 Hamlet advisory boards

A council may establish a hamlet advisory board for a hamlet and provide for the election of members to the board under the *Local Authorities Election Act* as it may be modified by the Minister for that purpose.

63 The requirements for petitions are set out in sections 13-19.

292 Public works defined

In this Division, "***public works***" includes anything that is for a municipal purpose.

Division 8

Tax notices[64]

293 Municipal taxes deemed to be payable on January 1

All municipal taxes, except supplementary property taxes,

(a) are deemed to have been imposed, and

(b) are payable

on and after January 1 of the calendar year in which they are imposed, unless the bylaw under which they are imposed says otherwise.

294 Tax roll

Each municipality must have information, collectively called a tax roll, in sufficient detail to show for each taxable property

(a) who is liable to pay the tax,

(b) what is being taxed,

(c) the name or names of the municipal tax,

(d) the amount of the municipal tax,

(e) the amount of municipal taxes outstanding, and

(f) any other information that the council directs be included.

64 The intention of the MSRC is that all tax notice and payment provisions apply to all municipal taxes. As the details of these provisions are worked out, modifications may well be needed to the Act or through bylaws to establish an efficient process.

295 Obligation to pay tax

Every person shown on a tax roll as liable to pay a municipal tax must pay the tax, and any penalties or costs payable in respect of the tax, irrespective of the nature or amount of the person's interest in the taxable property.

296 Payment of taxes by instalments

A council by bylaw may permit municipal taxes to be paid, at the option of the person liable to pay the tax, by instalments.

297 Compromise, cancellation , deferment and refund of taxes

(1) A council may generally, or with respect to a particular person, particular taxable property, or a class of persons or property

(a) reduce arrears of municipal taxes with or without conditions;

(b) cancel arrears of municipal taxes that cannot be collected;

(c) cancel or refund all or part of a municipal tax when the council considers it equitable to do so;

(d) defer or delay the collection of municipal taxes;

(e) phase in a municipal tax increase or decrease resulting from a general assessment over a period, not exceeding the anticipated period between general assessments.

(2) Except for subsection (1)(d), this section does not apply to local improvement taxes.

298 Mailing or delivering tax notices

(1) A municipality must

(a) mail to, or

(b) deliver to an adult person at

the address shown on the tax roll of the person liable to pay the municipal tax, other than business taxes, only one notice during the year with respect to each taxable property.

(2) Only one tax notice respecting business taxes may be sent to a business in each calendar year.

299 Contents of tax notices

(1) A tax notice must show for taxable property

(a) the name, address and school support of the person liable to pay the municipal tax, where applicable,

(b) the same information that is shown on the tax roll,

(c) the date on which a penalty may be imposed if the tax is not paid,

(d) where municipal tax can be paid, and

(e) any other information council directs.

(2) The tax notice may include on one notice a number of taxable properties in respect of which a municipal tax is payable by the same person.

(3) A council may authorize tax notices to be divided into two notices

(a) one relating to the municipal taxes imposed as a result of one or more of the requisitions made on the municipality for health, education and other services by other bodies, and

(b) one relating to all other municipal taxes.

(4) A reference in this Act to a "tax notice" is to be read as a reference to both tax notices if 2 are used.

300 Notice of instalment payments

When an agreement is entered into permitting a person to pay a municipal tax by instalments the tax notice, or a separate notice enclosed with the tax notice, must also state

(a) the amount and due dates of the instalments to be paid in the remainder of the year, and

(b) what happens if an instalment is not paid.

301 Tax notices to purchasers of property

A tax notice need not be sent to a purchaser of taxable property unless the municipality receives notice in writing requesting that tax notices be sent to the purchaser.

302 Interim tax notice

(1) If a council adopts an interim budget, the council may pass an interim property tax bylaw and may authorize a designated officer to issue an interim tax notice.

(2) The provisions of this Act about property tax bylaws and tax notices apply to an interim property tax bylaw and an interim tax notice.

303 Imposition of tax

(1) A designated officer must enter on the tax roll the date each tax notice is mailed or delivered.

(2) The date of mailing or delivery is evidence of the imposition of the municipal tax.

(3) Neither the appointment of nor the authority of the designated officer to make the entry on the tax roll needs to be proved.

(4) The absence of a date on the tax roll is evidence that the address of the person named on it is unknown.

304 Penalties for unpaid current taxes

A council may by bylaw, for the calendar year in which they are imposed

(a) specify a penalty for the non-payment of municipal taxes by the due date or dates, and provide that all or any subsequent instalment

becomes payable immediately;

(b) impose the penalty on a sliding scale.

305 Penalties for arrears of municipal taxes

(1) Municipal taxes are in arrears when they remain unpaid after December 31 of the year in which they are imposed.

(2) A council may by bylaw impose penalties on arrears of municipal taxes in an amount not exceeding the percentage of the amount outstanding prescribed by the Minister.

(3) A penalty may be imposed each calendar year arrears of municipal taxes remain unpaid.

(4) A penalty under this section may be imposed on January 1 or any later date or dates specified in the bylaw.[65]

306 Penalties become taxes

A penalty imposed under a bylaw for not paying municipal taxes or arrears of municipal taxes, or for not paying municipal taxes on time, forms part of the tax in respect of which the penalty is imposed as soon as it is imposed.

307 Effect of bylaws

A bylaw passed under this Division must not be construed to extend the time for payment of municipal taxes or in any way to impair any remedy provided by any enactment for the collection of taxes.

308 Prepayment incentives

A council by bylaw may provide incentives for early payment of municipal taxes.

65 When taxes in respect of land are in arrears the *Tax Recovery Act* may also apply.

309 Receipt for payments

When municipal taxes are paid to a municipality, a receipt must be given for them in a manner approved by the council.

310 Application of tax payments

(1) If arrears of municipal taxes are owing on taxable property, a payment in respect of municipal taxes must be applied first in payment of the arrears.

(2) If a person does not say to which taxable property a payment of municipal taxes is to be applied, a designated officer must decide to which taxable property owned by the person paying the taxes the payment is to be applied.

311 Money payable under fire insurance policy

(1) Municipal taxes due in respect of improvements are a first charge on any money payable under a fire insurance policy in respect of loss or damage to those improvements.

(2) Municipal taxes due in respect of any business assessment are a first charge on any money payable under a fire insurance policy in respect of loss or damage to any personal property located on the premises in which the assessed business is carried on which are used in connection with that business and which belong to the person assessed in respect of the business.

(3) This section does not create a charge on any money payable under a fire insurance policy

(a) unless the money payable for damage or loss to improvements or person property is $1000 or more,

(b) notwithstanding clause (a), unless the money payable is for a total loss of the property insured, or

(c) which was effected and maintained for the person's own protection by a mortgagor of the property insured.

(4) As soon as possible after an insurer receives notice of loss or damage under a fire insurance policy, the insurer must give notice, by registered

mail, of the loss or damage to the chief administrative officer of the municipality in which the property is situated.

(5) Within 15 days of the mailing of the notice in accordance with subsection (4), the chief administrative officer must notify, by registered mail, the insurer of the full amount of the municipal taxes dues in respect of the improvements and any business carried on the premises.

(6) When a charge arises under this section and a notice is mailed in accordance with subsection (5), the insurer must pay to the municipality

(a) the amount of the taxes stated in the notice to be due to the municipality, or

(b) the amount the insurer is liable to pay under the policy, whichever is the lesser.

(7) When payment is made under subsection (6), the amount for which the insurer is liable under the policy is reduced by the amount of the payment.

312 Priority of taxes

(1) Municipal taxes, penalties and costs due in respect of taxable property are recoverable with interest as a debt due to the municipality.

(2) A payment by a person to a municipality under subsection (1) does not affect any right of recourse that person may have against any other person who

(a) was the owner, purchaser, lessee, licensee or permittee of the land or improvements at the time of its assessment, or

(b) subsequently becomes the owner, purchaser, lessee, licensee or permittee of the whole or any part of it.

(3) A copy of an extract of a tax roll certified as a true copy by a designated officer is evidence of the municipal taxes payable in respect of the property included in the extract.

313 Tax certificates

(1) On receipt of a request, a designated officer must issue a certificate about the taxation or the status of municipal taxes outstanding on taxable property in the municipality.

(2) A request for a certificate under subsection (1) must be made in a manner described by the council.

PART 9

LIABILITY OF MUNICIPALITIES AND ENFORCEMENT OF MUNICIPAL LAW

Division 1

Legal liability of municipalities

314 Purpose

The purpose of this Division is

(a) to protect the municipality's ability to allocate its financial and other resources, and to plan its expenditures,

(b) to encourage municipalities to take reasonable care in the conduct of their affairs.

315 Restriction on nuisance and other liability

A municipality is not liable for an action based on nuisance, or any other action which does not require a finding of negligence,[66] when the damages arise, directly or indirectly, out of the breakdown or malfunction of

(a) a sewer system,

(b) a water or drainage facility or system, or

(c) a dyke or roads.

316 Remedies for nuisance

When deciding on nuisance remedies a court must, when applicable, give the municipality the choice between paying damages for future loss or removing the cause of the loss.

66 This section is, in part, intended to repeal the rule in Rylands v. Fletcher.

317 Scope of duty

A municipality is not liable for failing to act when it has authority or is given authority to act but does not or decides not to act.

318 Restrictions on liability for municipal decisions

A municipality is not liable for damages caused by a decision made by the municipality about

(a) a system of inspection, or the manner in which inspections are to be performed or the frequency, infrequency, or absence of inspections, and

(b) a system of maintenance, or the manner in which maintenance is to be performed, or the frequency, infrequency, or absence of maintenance.

319 Liability of municipality

(1) A municipality is only liable if it is grossly negligent for the injury to any property or person, caused by snow, ice or slush on roads[67] in the municipality.

(2) A person who brings an action claiming gross negligence described in subsection (1) must notify the municipality of the event which gives rise to the action within 120 days of the occurrence of the event.

(3) Failure to notify the municipality bars the action unless

(a) there is a reasonable excuse for the lack of notice, and the municipality is not prejudiced by the lack of notice, or

(b) death is the result of the event complained of.

(4) A municipality may waive the notice requirement.

67 "roads" is defined in Schedule 1.

NOTE TO READER: Amendments to the *Public Highways Development Act*

The MSRC recommends that s184 of the Municipal Government Act (which creates a duty to keep roads in good repair) and s188 MGA (which creates a duty to provide adequate drainage on highways maintained by council) should be moved to sections 38 and 39 respectively of the *Public Highways Development Act*. It recommends that:

- there should be a 120 day notice requirement, and
- the provisions for an alternative dispute resolution in the MGA should be removed because, having natural person powers, a municipality can use those procedures without legislative authority.

320 Structured judgments

Unless otherwise agreed between a plaintiff and a defendant municipality

(a) an award of damages by judgment against a municipality in excess of $250,000 must be made payable by periodic payments,

(b) an award of costs to the plaintiff must be taxed on a scale that the court may direct, and

(c) an award of pre-judgment interest must be

(i) at a rate, and

(ii) awarded only for the period commencing with the date on which the plaintiff had sufficient information to assess the question of liability,

as directed by the court.

321 Recovery of legal costs

Even though the remuneration of a municipal solicitor is paid fully or partly by salary, the municipality is entitled to tax and collect costs in civil proceedings to which the municipality is a party.

Division 2

Liability of councillors and municipal officers

322 Definitions

In this Division

(a) "***municipal committee member***" means a member of a committee or other body established by council,

(b) "***municipal officer***" means

(i) the chief administrative officer, municipal secretary, treasurer and designated officers, and

(ii) employees of the municipality.

(c) "***volunteer worker***" means a volunteer member of a fire, ambulance or emergency measures organization established by a municipality, or other volunteer performing duties under direction of the municipality.

323 Protection from liability and exemptions

(1) Councillors, municipal committee members, municipal officers and volunteer workers are not liable for

(a) anything said or done in the performance or intended performance of their functions, duties or powers, or

(b) loss or damage from negligence in the performance or intended performance of their functions, duties or powers,

unless subsection (2) applies.

(2) Subsection (1) is not a defence if

(a) the cause of action is defamation, or

(b) if the person was dishonest, grossly negligent or guilty of wilful

misconduct.

(3) This section does not affect the legal liability of the municipality.

Division 3

Enforcement of municipal law[68]

324 Municipal inspections

(1) If this or another enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a person authorized by a council may, after giving reasonable notice to the owner or occupier of the land, building, structure or thing

(a) enter or inspect, at any reasonable time, anything authorized or required to be inspected, remedied, enforced or done by this or another enactment or a bylaw,

(b) request anything to be produced to assist the entry or inspection, and

(c) take copies of anything related to the entry or inspection.

(2) The person authorized must display or produce on request identification showing that the person is authorized to make the entry or do the inspection.

(3) In an emergency or in extraordinary circumstances the person authorized need not give reasonable notice, or enter or inspect at a reasonable hour.

325 Court authorized inspections and enforcement

(1) If a person

68 MSRC recommends that the powers of enforcement in this Act be a one source reference point for municipalities. In the Committee's opinion it is unnecessary for legislation to repeat enforcement powers whenever new law is made. This Division applies to enforcement powers in all Acts, regulations and bylaws. If the Government accepts this recommendation the Committee appreciates many other Acts will need to be amended as part of the consequential amendment review. In the Committee's opinion the reduction in existing legislation and the removal of the need for new enforcement legislation in this area will make the exercise well worthwhile.

(a) refuses to allow an entry or inspection by a person authorized by council,

(b) refuses to produce anything to assist the entry or inspection,

(c) refuses to allow an action or measures to be taken or something to be done, or to stop an activity,

(d) refuses to remedy a contravention of a bylaw or a contravention of this or another enactment, or

(e) interferes with the entry, inspection, action or measures,

the municipality may apply to the Court of Queen's Bench, by way of originating notice, for an order under subsection (2).

(2) The court may make an order

(a) restraining a person from preventing or interfering with the entry, inspection, action or measures,

(b) requiring the production of anything to assist an entry or inspection, or

(c) requiring a contravention of a bylaw or a contravention of this or another enactment to be remedied.

(3) A copy of the originating notice and a copy of each affidavit in support must be served at least 3 days before the day named in the notice for hearing the application.

(4) In emergency situations or in extraordinary circumstances the court may hear the application without notice to any other person.

326 Written order to remedy contraventions

(1) If a municipality finds that a person is not complying with

(a) this or another enactment, or

(b) a bylaw,

the municipality may, by written order, notify the person responsible for

the contravention to remedy it if the circumstances so require.

(2) To ensure compliance with this or another enactment or a bylaw the order may,

(a) direct a person to stop doing something, or to change the way in which the person is doing it;

(b) direct a person to do something;

(c) direct a person to take any action or measures necessary to remedy the contravention of this or another enactment or the bylaw and, if necessary, to prevent a re-occurrence of the contravention;

(d) state a time within which something must stop or be done.

327 Appeal to council

(1) A person who receives a written order under section 326(1) may appeal to council by written notice within 14 days of the date the written order is received, or such longer period as an enactment or a bylaw specifies.

(2) The council may establish or name a council committee to hear and decide appeals made under this section.

328 Council decision and right of appeal to the Court

(1) After hearing the appeal against the written order, the council or council committee, may confirm, vary, substitute or cancel the written order made by the municipality.

(2) A person affected by the decision of a council or council committee may appeal to the Court of Queen's Bench within 30 days of the date the decision is served on the person if

(a) the procedure required to be followed by this or any other enactment or bylaws is not followed, or

(b) the order is patently unreasonable,

stating the reasons for the appeal.

(3) The Court may

(a) set aside, vary or modify the decision, or

(b) send the decision back to the entity that made it with directions.

329 Action suspended during appeal period

No action or measures are to be taken by the municipality to remedy a contravention of this or another enactment or a contravention of a bylaw during the appeal periods described in this Division or a bylaw, unless there is an emergency or in extraordinary circumstances.

330 Recovery of costs

(1) When, under this or any other enactment or a bylaw, a council directs or orders that an action or measures be taken by a person, the council may also give a written warning that if it is not done, the action or measures will be taken by the municipality at the expense of the person to whom the notice is given.

(2) After

(a) a warning has been given,

(b) a person has not complied with a written order under section 326(1) within the time required, and

(c) the time for an appeal has expired,

the municipality may take whatever action or measures are necessary to remedy the contravention of this or another enactment or the contravention of the bylaw.

(3) If an emergency occurs or extraordinary circumstances arise which makes the procedure described in subsection (2) impossible or impractical the municipality may take whatever action or measures are necessary without delay to remedy the contravention of this or another enactment or the contravention of the bylaw.

(4) The municipality may recover the expenses and costs of an action or measure taken in accordance with this section

(a) by proceedings in a court of competent jurisdiction as a civil action,

(b) by adding the costs and expenses to the tax roll in respect of any land owned by the person in default,[69] or

(c) by distress and sale of the personal property of the person in default.

331 What happens if a municipality is not paid?

Except as provided in this or any other enactment, a council may for anything payable to the municipality

(a) that is owing by the owner of land, charge the unpaid amount to that land, and when the charge is made it

(i) forms a lien against the land in favour of the municipality payable in priority to any other charge or lien on the land,

(ii) is deemed for all purposes to be municipal taxes from the date the expense was incurred or the payment was due, and

(iii) Part 8 and the *Tax Recovery Act* apply to the enforcement, collection and recovery of the amount, or

(b) that is owing by any person, collect the unpaid amount as a debt due by that person and a lien and charge on the person's personal property

(i) by civil action for debt in a court of competent jurisdiction, or

(ii) by distress and sale of the person's personal property.[70]

69 Some linkages to the tax roll will be needed.

70 To be reviewed in light of the *Personal Property Security Act*. It may be appropriate to allow liens to be registered under that Act. This section is intended to include fines, penalties, fees and levies.

332 Injunction

(1) When

(a) a building or structure is constructed in contravention of an enactment or a bylaw,

(b) a contravention of this or another enactment or a contravention of a bylaw is of a continuing nature, or

(c) any person is carrying on business or is doing any act, matter or thing without having paid money required to be paid by a bylaw,

in addition to any other remedy and penalty imposed by this or another enactment or a bylaw, the municipality may apply to the Court of Queen's Bench for an injunction or other order.

(2) The Court may grant or refuse the injunction or other order or may make any other order that in its opinion the justice of the case requires.

Bylaw enforcement officers

333 Bylaw enforcement officers

(1) An employee of a municipality who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, a person employed for the preservation and maintenance of the public peace.

(2) Bylaw enforcement officers must take the official oath prescribed by the Oaths of Office Act before starting their duties.

334 Powers and duties of bylaw enforcement officers

The council must pass a bylaw

(a) specifying the powers and duties of bylaw enforcement officers, and

(b) establishing disciplinary procedures for misuse of power including penalties and an appeal process, applicable to misuse of power by bylaw enforcement officers.

335 Training standards for bylaw enforcement officers

The Minister may prescribe training standards for bylaw enforcement officers.

Division 4

Offences and penalties

336 General offences

A person who knowingly, intentionally or negligently contravenes

(a) a provision of this enactment,

(b) a direction of the Minister, or

(c) an order under section 326(1),

is guilty of an offence.

337 Offences applicable to officials

A chief administrative officer or designated officer

(a) who knowingly, intentionally or negligently fails to discharge the duties of office,

(b) who knowingly, intentionally or negligently signs any statement, report or return required by this or any other enactment or bylaw that contains a false statement, or

(c) who knowingly, intentionally or negligently fails to hand over to a successor in office, or to the persons designated in writing by the council or the Minister, all money, books, papers and other property of a municipality,

is guilty of an offence.

338 Unauthorized use of heraldic emblems

A person is guilty of an offence who, without authority of council, assumes or uses a design, form or heraldic emblem of the municipality or anything that resembles it with the intention of deceiving others into thinking the person had authority to assume or use it.

339 Prosecution for obstructing public work or utilities

A person who knowingly, intentionally or negligently interferes with another in the construction, maintenance, operation or repair of a public work or public utility is guilty of an offence.

340 Prosecution of business

In a prosecution for contravention of a bylaw against engaging in or operating a business without a license, proof of one transaction in the business is sufficient to establish that a person is engaged in or operates the business.

341 Time within which prosecutions must commence

A prosecution under this Act or a bylaw may be commenced within 2 years after the date of the alleged offence, but not afterwards.

342 Penalty

A person who is found guilty of an offence under this Act is liable to a fine of not more than $10,000 or to imprisonment for not more than 1 year, or both fine and imprisonment.

343 Order for compliance

If a person is found guilty of an offence under this Act or a bylaw the court may, in addition to any other penalty imposed, order the person to comply with this Act or a bylaw or a licence, permit or other authorization issued under the bylaw, or a condition of any of them.

344 Recovery of fines and penalties

(1) All fines, penalties and forfeitures under this Act may be recovered and enforced with costs on summary conviction, unless otherwise provided.

(2) All money accruing from fines or penalties under this Act or under a bylaw, belong to the municipality in which the offence occurred.

(3) Every penalty, fee, levy, rate or other charge imposed under a bylaw may, unless any other provision is specifically made in respect of it, be recovered and enforced with costs on summary conviction in the Provincial Court of Alberta.

345 Civil liability not affected

A person who is guilty of an offence under this Act may still also be liable in a civil proceeding.

346 Civil liability of councillors

A councillor authorizing, voting for or paying for

(a) anything that is not included in an interim, operating or capital budget,

(b) anything that is not an emergency or not extraordinary circumstances, or

(c) not lawfully required to be paid,

is jointly and severally liable to repay to the municipality the amount improperly authorized, voted for or paid.

PART 10

WHAT ELSE IS THERE TO SAY?

Division 1

The Crown and regulation powers

347 Crown bound

This Act binds the Crown.[71]

NOTE TO READER:

The MSRC recognizes that when the Government accepts this recommendation that a number of issues will need to be considered including

- whether the Crown is liable under all municipal bylaws made under this and other Acts;
- whether the Crown should be liable to the same kinds of inspection and enforcement provisions as others;
- how proceedings should be conducted and enforced against the Crown.

The MSRC's view is that in principle the Crown should be bound by the *Municipal Government Act* but recognizes some matters may require special treatment or exemption.

348 Regulations

(1) The Lieutenant Governor in Council may make regulations for any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

71 The general rule is that the Crown is not bound by an Act unless the Act says so. This section picks up the trend in Canada and overseas to put the Crown on the same footing as are others in complying with the law.

(2) The Minister may make regulations

(a) prescribing supplementary standards for annual financial statements of municipalities and modifications to generally accepted accounting principles of municipalities;

(b) prescribing forms for the purposes of this Act;

(c) respecting limits on grants given by municipalities;

(d) respecting guarantees given by municipalities, the limits, form and nature of them and matters associated;

(e) respecting the content or form of anything required to be done by a municipality under this Act.

349 Ministerial directions for information

The Minister may direct a municipality to supply any statistical information and documents required by the Minister.

350 Altering dates

(1) When a date is fixed by this Act or regulations under it, or under a bylaw, on which or by which

(a) certain things are to be done, or

(b) certain proceedings are to be taken,

and the day is a holiday, the things or proceedings must be done or taken on or by the next day after the day fixed that is not a holiday.

(2) When this Act fixes a certain number of days or a certain time

(a) by which something is to be done, or

(b) proceedings are to be taken,

and the thing is not done, the Minister may by order appoint a further time or another time for doing it.

(3) An order under subsection (2) may be made at any time before or after the time fixed by this Act for the doing of the thing and the time for doing any other thing which had been fixed in relation to that time is subject to a like delay.

(4) Anything done at or within the time specified in the order is as valid as if it had been done at or within the time fixed by or under this Act.

351 Regulations Act does not apply to directives

The *Regulations Act* does not apply to directives of the Minister under this Act.

Division 2

Other rules

352 Rules of residence

(1) For purposes of this Act, the place of residence of a person is governed by the rules in the Local Authorities Election Act, as far as they are applicable.[72]

(2) If a person maintains 2 or more residences under the rules in the *Local Authorities Election Act* the person must elect which is to be that person's residence under this Act.

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72 The rules in the *Local Authorities Election Act* read:

48(1) For the purposes of this Act, the place of residence is governed by the following rules:

(a) the residence of a person is the true, fixed, permanent home or lodging place to which, when he is absent, he has the intention of returning;

(b) a person does not lose his residence by leaving his home for a temporary purpose;

(c) if a person leaves the area with the intention of making his residence elsewhere, he loses his residence within the area;

(d) the place where a person's family resides is deemed to be his place of residence unless he takes up or continues his abode in some other place with the intention of remaining there;

(e) the residence of a single person is the place where he occupies a room as a regular lodger or to which he habitually returns not having any other permanent lodging place;

(f) a person is deemed not to have a residence in more than 1 place and if he maintains residences within the boundaries of more than 1 local jurisdiction, ward or voting subdivision he must declare 1 as his residence for the purpose of this Act.

353 Adverse possession of land

No person can acquire an estate or interest in land owned by a municipality by adverse or unauthorized possession, occupation, enjoyment or use of the land.

354 Lost or unclaimed property

(1) Lost or unclaimed property coming into the possession of a municipality must be retained for at least 45 days from the date it comes into possession of the municipality unless it is unsafe, unsanitary or perishable, in which case it may be disposed of at any time.

(2) If property is not claimed within 45 days it becomes the property of the municipality and the municipality may dispose of the property by public auction or as the council directs.

(3) The purchaser of lost or unclaimed property at an auction, or otherwise, becomes the absolute owner of it and any claim of a prior owner is converted into a claim for the proceeds of the sale, after all expenses incurred by the municipality in relation to that property have been deducted from the sale proceeds.

(4) If no claim is made on the sale proceeds within one year from the date of sale, the proceeds must be transferred to the general revenue account of the municipality.

355 Unclaimed utility deposits

(1) If money is deposited with a municipality as a guarantee deposit for the payment of account for a service or product and remains unclaimed for 1 year after the depositor's account is discontinued, the amount of the deposit may be transferred to the general revenue account of the municipality.

(2) The municipality remains liable to repay the amount of the deposit to the person lawfully entitled to it for a period of 5 years following the discontinuance of the account but after the 5-year period the deposit becomes the property of the municipality free from any claim for it.

356 Certified copies

(1) A copy of a bylaw, resolution or record of a municipality having endorsed on it a certificate purporting to be signed by a designated officer, stating that the copy is a true copy, is admissible in evidence as proof of it without proof of the bylaw, resolution or record or the appointment or signature of the designated officer.

(2) When a copy of a bylaw or resolution so certified has been filed with the clerk of the court, the court must take judicial notice of it when an action is brought in the court.

PART 11

TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Division 1

Charters

357 Calgary charter

The provisions of the Calgary Charter relating to the land, buildings, plants and equipment of the water supply and distribution system commonly known as the Glenmore Dam, and the provisions relating in particular to the assessment and taxation of it by the Municipal District of Springbank continue to apply.

358 Edmonton charter

The provisions of the Edmonton Charter relating to

(a) the exclusive franchise for the sale of natural gas held by Northwestern Utilities Limited, and

(b) exemptions and fixed taxation for hotels contained in subsection 35 of section 221 of the Edmonton Charter,

continue to apply.

359 Royal Alexandra Hospital

The Royal Alexandra Board of Governors, incorporated by section 35 of chapter 9 of the Statutes of Alberta, 1963, continued as a corporation under the name "Royal Alexandra Hospital" and without restricting the powers it may exercise, the corporation, subject to the bylaws from time to time of the City of Edmonton and any Act or regulation made under the Act, may

(a) manage, control and operate the Royal Alexandra Hospital, Edmonton, and other hospitals that it is authorized to manage,

control and operate,

(b) own any or all of the real property and personal property from time to time constituting the Royal Alexandra Hospital and any other hospital that it is authorized to manage, control and operate, with the power to deal with and dispose of the property in the ordinary course of managing, controlling and operating the hospitals or any of them, and

(c) carry on educational activities and provide educational facilities related to the care and treatment of persons suffering illness, injury or disability or relating to the promotion of health and in particular, but not so as to restrict the generality of the foregoing, conduct a school of nursing.

Division 2

Transition from former Acts to this Act

360 Definitions

In this Part

"*former Municipal Government Act*" means the Municipal Government Act, being chapter M-26 of the Revised Statutes of Alberta;

"former *Municipal Taxation Act* means the Municipal Taxation Act, being chapter M-31 of the Revised Statutes of Alberta.

361 Transitional regulations

The Minister may make regulations

(a) respecting the conversion of anything from the former Municipal Government Act or former Municipal Taxation Act to this Act;

(b) to deal with any difficulty or impossibility resulting from this Act or the transition from the former Municipal Government Act or former Municipal Taxation Act to this Act.

362 Annexations in process

An annexation application made but not completed when this section comes into force is to continue until the matter is finally decided as if this Act had not come into force and the former Municipal Government Act had stayed in force.

363 Authorizations

Licences, permits, approvals and authorizations issued under bylaws or resolutions made under the former Municipal Government Act continue as if they had been made under this Act.

364 Bylaws

A bylaw passed by a council under the former Municipal Government Act or former *Municipal Taxation* ... continues with the same effect as if it had been passed under this Act.

365 Resolutions and other decisions

Resolutions and other decisions made by or in respect of a municipality or a council under the former *Municipal Government Act* or former *Municipal Taxation Act* continue with the same effect as if they had been made under this Act.

366 Municipalities continued

A city, town, village, summer village or municipal district in existence immediately before the coming into force of this section

(a) continues as a municipality with same status under this Act, and

(b) has the same functions, powers and duties of a municipality established under this Act,

as if it had been incorporated under this Act.

367 Long term supply contracts and franchises

Long term supply contracts, exclusive rights and franchises, subject to any special provision of this Act which affects them, are continued according to their terms.

368 Existing agreements to pay a percentage of gross revenues of a franchise instead of property tax

Nothing in this Act abrogates anything in an agreement made under section 17 of the former *Municipal Taxation Act*.

369 Exemption agreements made before July 1, 1967

All property that has been exempted from taxation, in whole or in part, by a specific agreement entered into by a municipality before July 1, 1967 continues to be exempt from taxation under a property tax bylaw in accordance with the agreement but only during the life of the agreement and only to the extent of the exemption granted in the agreement.

370 Funds and reserves under the former Act

(1) Money paid into or required to be kept in a particular fund or special reserve in accordance with the former *Municipal Government Act* or former *Municipal Taxation Act* must

(a) be accounted for separately, and

(b) only be spent for the purpose for which the reserve or fund was established or for which the money was paid.

(2) If the purpose of the particular fund or special reserve or the purpose for which the money was collected or retained is fulfilled, is no longer necessary, or is no longer required, the council may authorize the fund or reserve to be closed and the money in it to be used for some other purpose, or for general municipal purposes.

(3) A bylaw or a resolution under subsection (2) must be advertised.

371 Variation of provisions

If a special provision or exception of another enactment is applicable to an individual city, the provisions of this Act are varied only in so far as is necessary to give effect to the special provision or exception.

Division 3

Alberta Corporate Income Tax Act

372 Alberta Corporate Income Tax Act

MSRC recommends that section 87 of the *Alberta Corporate Income Tax Act* be amended to the following effect:

> *When the parties to a reciprocal insurance exchange established under the Insurance Act are local authorities as defined in the Local Authorities Election Act, or municipal associations, the insurance business transacted through the exchange is exempt from the tax imposed under section 87 of the Alberta Corporate Income Tax Act.*

Division 4

Amendments to other Acts needed as a consequence of this Act

NOTE TO READER: There are approximately 114 Acts which will need reviewing as a result of this Act. Many of those will need to be amended or repealed to remove or avoid conflicts and inconsistencies. Helpful comments on some consequential amendments were received but until policy decisions are made by the Government it is too early to make firm recommendations in response to the comments.

Alberta Rules of Court

The MSRC recommends that s15(2)(b) of the Alberta Rules of Court be amended to read

> *"by leaving a copy of the document to be served with the chief administrative officer or a designated officer of a municipality during office hours".*

Agricultural Chemicals Act
Agricultural Pests Act
Agricultural Relief Advances Act
Agricultural Service Board Act
Alberta Energy Company Act
Alberta Mortgage and Housing Corporation Act
Alberta Municipal Financing Corporation Act
Alberta Research Council Act
Alberta Sport Council Act
Amusements Act
Assessment Appeal Board Act
Assured Income for the Severely Handicapped Act
Border Areas Act
Cemeteries Act
Cemetery Companies Act
City Transportation Act - repeal s4(2.3)
Clean Air Act
Clean Water Act
Companies Act
Condominium Property Act
Crown Cultivation Leases Act
Crowsnest Pass Municipal Unification Act
Dairy Industry Act
Daylight Saving Time Act
Department of Municipal Affairs Act
Department of Public Works Supply and Services Act
Drainage Districts Act
Expropriation Act
Family and Community Support Services Act
Fire Prevention Act
Forest and Prairie Protection Act
Gas Utilities Act
Health Insurance Premiums Act
Highway Traffic Act
Historical Resources Act
Hospitals Act
Hydro and Electric Energy Act
Improvement Districts Act
Interpretation Act
Irrigation Act
Jury Act
Labour Relations Act

Land Agents Licensing Act
Land Surface Conservation and Reclamation Act
Land Titles Act
Landlord and Tenant Act
Law of Property Act
Legal Profession Act
Libraries Act
Licensing of Trades and Businesses Act
Liquor Control Act
Litter Act
Livestock Diseases Act
Local Authorities Board Act
Local Authorities Election Act
Local Tax Arrears Consolidation Act
Maintenance Order Act
Medical Profession Act
Mobile Home Sites Tenancy Act
Motor Transport Act
Motor Vehicle Administration Act
Municipal Debentures Act
Municipal and School Administration Act
Municipalities Assessment and Equalization Act
New Towns Act
Northeast Alberta Regional Commission Act
Nursing Service Act
Occupational Health and Safety Act
Off-Highway Vehicle Act
Optometry Profession Act
Pipeline Act
Planning Act (Amend section 140(3) to prohibit councillors from voting if they are absent from all of the public hearing preceding the vote).
Plumbing and Drainage Act
Police Act
Police Officers Collective Bargaining Act
Property Tax Reduction Act
Provincial Court Act
Public Contributions Act
Public Health Act
Public Highways Development Act
Public Lands Act
Public Safety Services Act
Public Utilities Board Act
Railway Act
Recreation Development Act

Regional Municipal Services Act
Regulations Act
Rural Gas Act
School Act
Seed Control Area Act
Senior Citizens Housing Act
Social Care Facilities Licensing Act
Social Development Act
Soil Conservation Act
Special Areas Act
Surveys Act
Teachers' Retirement Fund Act
Teaching Profession Act
Treasury Branches Act

Division 5

Repeal and coming into force

373 Repeal of Acts

The following Acts are repealed

(a) *Municipal Government Act*;
(b) *Municipal Taxation Act*;
(c) *Electric Power and Pipeline Act*;
(d) *Municipal and Provincial Properties Valuation Act*;
(e) *Crown Property Municipal Grants Act*;
(f) *Municipal Tax Exemption Act*;
(g) *Water Gas and Electric Act*.

NOTE TO READER: The MSRC recognises that some of these Acts might be more appropriately repealed by the *Property Assessment Act*.

374 Coming into force

This Act comes into force on a date to be fixed by Proclamation.

Schedule 1

Commonly used words and phrases in the Act

Division 1

Definition of words

1 Words defined

In this Act

"***business***" means

(a) a commercial, merchandising or industrial activity or undertaking,

(b) a profession, trade, occupation, calling or employment, and

(c) an activity providing goods or services,

whether or not for profit and in whatever form the business is practised, including a co-operative or association of persons;

"***by-election***" means an election to fill a vacancy on council other than at a general election;

"***chief administrative officer***" means the person or persons appointed by a council to perform the functions, duties and powers of the chief administrative officer;

"***chief elected official***" means the person elected or appointed as head of the council whether known as the mayor, reeve or by another name;

"***council***" means

(a) the council of a city, town, village, summer village, municipal district or specialized municipality;

(b) subject to the provisions of other enactments,

(i) the board of administrations of a new town under the *New Towns Act*,

(ii) the council of a county under the *Counties Act*,

(iii) the council of a town under the *Park Towns Act*, subject also to any agreement in respect of towns under that Act, and

(iv) the council of a municipality incorporated by a special Act, and

(c) where the context allows, the Minister of Municipal Affairs in respect of an improvement district and a special area, or

(i) in the case of an improvement district, an advisory council appointed under the *Improvement Districts Act*, or

(ii) in the case of a special area, the Special Areas Board appointed under the *Special Areas Act*,

as the case requires;

"***council committee***" means a committee established by council composed entirely of councillors, a mixture of councillors and others, or a committee composed entirely of persons who are not councillors;

"***councillor***" means a member of council, including the chief elected official;

"***debenture***" means any kind of security evidencing indebtedness;

"***designated officer***" means a person appointed by council to perform the functions, duties and powers of a designated officer,[1] but if no person is appointed it means the chief administrative officer;

"***elector***" means a person eligible to vote at an election under the *Local Authorities Election Act*;[2]

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1 A designated officer is appointed under section 158. Some of the functions of designated officers are described in section 158.

2 A person is eligible to vote in an election under the Local Authorities Act if he or she
(a) is at least 18 years old,
(b) is a Canadian citizen, and
(c) has resided in Alberta for the 6 consecutive months immediately preceding election day and is resident in the area on election day
unless another enactment requires the person to be a proprietary elector.

"***general election***" means an election held for all councillors to fill vacancies caused by the effluxion of time;[3]

"***hamlet***" means

(a) an area designated as a hamlet by the Minister or a council under a predecessor Act, and

(b) an unincorporated community

(i) with a distinct name,

(ii) with a defined boundary,

(iii) having 10 or more occupied dwellings within the boundary, a majority of which are on parcels of land of less than 1850 square meters,

(iv) having sufficient area within the boundary for non-residential uses, and

(v) that is designated as a hamlet by the Minister, or by a municipal district council, or the Minister in the capacity that the Minister has under the *Improvement Districts Act* or *Special Areas Act*;

"***land***" means physical land or an estate or interest in land, or both, as the context requires;

"***Minister***" means the Minister of Municipal Affairs;

"***municipal associations***" means the Alberta Association of Municipal Districts and Counties, the Alberta Urban Municipalities Association, the Association of Summer Villages of Alberta and the Improvement Districts Association of Alberta;

"***municipal tax***" means a tax imposed by a municipality under Part 8 or Schedule 4;

"***municipality***", depending on the context in which the word is used, means

3 This is the same definition as the Local Authorities Election Act s1(l).

(a) either

(i) a city, town, village, summer village, municipal district and specialized municipality, and

(ii) subject to the provisions of other enactments,

(A) a new town under the *New Towns Act*,

(B) a county under the *Counties Act*,

(C) a town under the *Park Towns Act*, subject also to any agreement in respect of towns under that Act,

(D) a municipality incorporated by special Act,

(E) an improvement district under the *Improvement Districts Act*, and

(F) a special area under the *Special Areas Act*,

or

(b) the geographic area inside of the entities described in clause (a);

"***owner***" means

(a) in respect of land, the person who is registered under the Land Titles Act as the registered owner of a parcel of land, or

(b) in respect of other property, the person in lawful possession of it;

"***parcel of land***" has the same meaning that "parcel" has in the Planning Act;[4]

"***population***" means

(a) the population figure of the municipality determined by the municipality taking an actual census between April 1 and June 30,

4 The Planning Act defines "parcel" in section 1(o) as

(o) "parcel" means the aggregate of the one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office;

or

(b) the latest population census figure of the municipality taken under the *Statistics Act (Canada)*,

whichever is taken later, or if there are no figures, the population determined by the Minister;

"***public utility***" means a system or works requiring a road, public place or watercourse for its construction, operation or maintenance, which provides, for public consumption, benefit, convenience or use,

(a) water or steam;

(b) sewage disposal;

(c) public transportation;

(d) irrigation;

(e) natural gas;

(f) electric power;

(g) heat;

(h) anything else specified by a council;

"***roads***" has the same meaning as "public roadway" in the *Planning Act*,[5] and includes a pedestrian walkway or right of way;

"***taxable property***" means land, improvements, energy lines, and businesses on which a municipal tax is imposed;

"***taxpayer***" means a person whose name appears on the tax roll of a municipality as a person liable to pay tax;

"***tax roll***" means the information established as a tax roll by a municipality under this Act.

Division 2

Definition of phrases

2 "The whole council"

(1) "***The whole council***" means the total number of positions on council, including the position of chief elected official, whether or not there are any vacancies on council, unless subsection (2) or (3) applies.

(2) If a council does not hold a by-election during a period described in section 90 or for a reason stated in section 88, the phrase "the whole council" means the number of councillors remaining in office, whether or not there are vacancies in the remaining positions.

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5 The *Planning Act* definition is:

(p.1) "public roadway" means
(i) in a city, town, new town, village or summer village, the right of way of all or any of the following:
(A) a local road,
(B) a service road,
(C) a street,
(D) an avenue, or
(E) a lane,
that is publicly used or intended for public use,
(ii) in a county, municipal district, improvement district or special area, the right of way of all or any of the following:
(A) a controlled street or rural road as defined in the Public Highways Development Act, or
(B) a service road or a lane that is intended for public use,
(iii) a road, street or highway designated as a secondary road pursuant to the Public Highways Development Act, except those secondary roads numbered between 900 and 999,
and includes a public right of way on which no motor vehicle, as defined in the Motor Vehicle Administration Act, is permitted to operate;

(3) If the Minister orders a lesser number of councillors to constitute a council, the phrase "the whole council" means the lesser number ordered by the Minister.

3 The power to "regulate"

The power of a council to "regulate" or of "regulating" or "regulation" by passing bylaws includes the power

(a) to prohibit, or

(b) to manage, operate and control,

in whatever way the council considers to be most appropriate.

4 General rules for incorporation

The ***"general rules for incorporation"*** or ***"general rules for its incorporation"*** means the general rules established for incorporating the kinds of municipalities referred to in section 33 as the rules are modified, if at all, by the Minister for what is in the Minister's opinion a justifiable reason.

Schedule 2

Local Governance Commission

1 What is the purpose of the Commission?

The purpose of the Local Governance Commission is

(a) to facilitate resolution of any issue or dispute between municipalities by the municipalities themselves, and

(b) to perform any other function given to it by the Minister.

2 Establishment of Commission

(1) The Local Governance Commission is established as a corporation composed of its members.

(2) On the recommendation of the Minister, the Lieutenant Governor in Council may appoint, as members of the Commission, a person to chair the Commission and any other persons that are considered necessary.

(3) Before making recommendations about the membership of the Commission the Minister must consult the Presidents of the municipal associations.

3 Restrictions on appointees

(1) A person who holds elected office in any government is not eligible to be recommended or appointed as a member of the Commission.

(2) If a member of the Commission is elected to an office in a government the person's membership on the Commission automatically terminates.

4 Term of office

(1) The term of office of a member of the Commission is 5 years, subject to subsections (2) and (4).

(2) Members of the Commission may be reappointed, and the Minister may

direct that a member whose term expires but who is not reappointed may still continue to serve as a temporary member until a report has been made on an issue with respect to which the member has participated.

(3) A person continued as a temporary member is considered to be a member of the Commission for all purposes.

(4) The first appointments of some of the members must be for less than 5 years in order to provide for subsequent continuity of membership on the Commission.

5 Vacancies

A vacancy in the membership of the Commission is to be filled for the unexpired term in the same manner as the original appointment was made.

6 Fees and expenses

The person chairing the Commission and each member must be paid

(a) for their services, and

(b) their reasonable and necessary travelling and living expenses while absent from their ordinary place of residence in the course of their duties as members of the Commission,

at the rates prescribed by the Minister.

7 Employees

The Commission may employ or engage the services of any persons it considers necessary.

8 Financing the Commission

The costs and expenses of the Commission and its members must be paid out of money appropriated by the Legislature for that purpose.

9 Powers and duties of the Commission

The Commission may

(a) help municipalities to solve differences between them;

(b) investigate, analyze and make findings of fact about the probable effect on municipalities, and on the people residing in an area, of a proposal to

(i) enter into revenue, cost or tax sharing agreements between municipalities or any combination of them,

(ii) incorporate a new municipality,

(iii) annex land from one municipality to another,

(iv) change the status of a municipality,

(v) amalgamate two or more municipalities, or

(vi) dissolve a municipality;

(c) initiate or pursue the resolution of a dispute between 2 or more municipalities;

(d) perform any other function the Minister directs.

10 Guidance by the Minister

In exercising its powers, duties and functions the Commission must be guided by any principles, standards or criteria established by the Minister, either generally or about a particular matter.

11 Procedural matters

The Commission

(a) may make rules of procedure for the conduct of its business;

(b) must keep a record of its proceedings and maintain and preserve its papers and records.

12 How does the Commission operate?

(1) A majority of the members of the Commission constitute a quorum.

(2) A panel of not less than 3 members may conduct a hearing, public meeting or investigation, and make any report required of the Commission.

(3) The temporary absence of a panel member from a hearing or public meeting does not disqualify the member from participation in the report.

(4) The Commission

(a) must hold one or more hearings or public meetings at which any affected person may appear before the Commission before it makes a report, unless clause (b) applies;

(b) may hold hearings or public meetings in respect of matters described in section 9(c) and (d) if it concludes that public discussion would assist in the preparation of its report.

(5) The Commission must publish a notice of any hearing or public meeting at least once a week for 2 consecutive weeks in a newspaper or other publication circulating in the affected area and the second notice must be not less than 6 days before the hearing.

13 Jurisdiction of Commission[6]

(1) A municipality may request the Commission to assist in the negotiation of any agreement between it and one or more other municipalities.

(2) Every application to

(a) establish, dissolve or change the status of a municipality,

(b) amalgamate 2 or more municipalities,

(c) annex land to or separate land from a municipality

6 The jurisdiction of the Commission is not intended to duplicate the jurisdiction of other Provincial bodies.

must be made to the Commission.

(3) Upon receipt of a request or application, the Commission

(a) must notify all the local authorities which, in the opinion of the Commission, would be affected by the matter,

(b) may do anything necessary to facilitate negotiations to reach an agreement on the subject, including acting as or designating a person as mediator, conciliator, facilitator or fact finder,

(c) may conduct investigations, analyze local needs, hold hearings or public meetings as described in section 12(4), make findings of fact and recommendations, and

(d) as a normal rule, no later than 6 months after receipt of a request must make a report of its findings and recommendations, but the time for submitting a report may be extended with the agreement of the majority of the affected municipalities.

(4) All expenses of negotiations, except the normal expenses of the Commission, are the responsibility of the municipality which made the request or application, unless otherwise agreed to by the affected municipalities.

14 Termination of proceedings

(1) The Commission must declare negotiations in which it is involved to be terminated if

(a) it finds that none of the parties are willing to continue to negotiate,

(b) 3 months have elapsed with no substantial progress toward an agreement, or

(c) 12 months have elapsed from the date of the original request or application to the Commission,

unless the majority of the parties agree that negotiations should continue or resume.

(2) The Commission must make its report to

(a) the affected municipalities when a request was made to it, and provide a copy of the report to the Minister, or

(b) to the Minister when an application was made to it, and provide a copy of the report to the affected municipalities and other local authorities affected by the report.

15 Implementing recommendations of the Commission

The Lieutenant Governor in Council or the Minister may make any orders and give any directions necessary to implement the Commission's recommendations.

Schedule 3
Examples of how the Act works

This schedule contains a list of examples illustrating and indicating how the bylaw making powers can be used.

The examples are intended to illustrate and indicate the way the Act works, they are not intended to be an exhaustive description of the application of the spheres illustrated.

In the event of conflict between the other sections of the Act and an illustration or indication contained in this Schedule, the other sections prevail.

* * *

Illustrations and indications of bylaw making authority

Spheres of jurisdiction		*Illustrations and indications*
the protection of persons and property and the regulation of nuisances	*(i)*	*regulate hazards, dangerous activities, or things to be prevented or removed, (including clearing sidewalks of snow and ice),*
	(ii)	*authorize removal of dangerous or hazardous things by municipal employees at the cost of the person named in the bylaw,*
	(iii)	*establish fire protection areas in rural municipalities,*
	(iv)	*require drainage ditches to be kept clear of obstructions and allow municipal action if they are not cleared.*
the regulation of	*(i)*	*speed limits and pedestrian crosswalks,*
. activities and other things in public places, and	*(ii)*	*regulate activities or other things at or near intersections or along roads which could limit visibility or distract drivers - e.g., growth of trees; lights which might affect the impact of traffic lights; signs and posters impairing visibility,*
. activities at and matters related to gatherings of the public for any public or private purpose, other than in private dwelling houses	*(iii)*	*regulate activities in parks and public places,*
	(iv)	*require permits for parades, exhibitions, shows or events,*
	(v)	*require security and medical personnel at sports events or contests.*

the regulation of transport and transportation systems	*to the extent that it is not in conflict with a law of the Parliament of Canada, the regulation of airports, floatplane bases, and railways, and the operation of them including*	
	(i)	*regulate the speed of trains across roads,*
	(ii)	*regulate municipal airports.*
the regulation of business, business activities and persons engaged in business	*(i)*	*regulate and license taxis,*
	(ii)	*regulate business licensing generally,*
	(iii)	*regulate opening and closing hours of retail businesses.*
the regulation of wild and domestic animals and activities in relation to them	*(i)*	*regulate zoos and pet shops,*
	(ii)	*regulate ownership of exotic animals,*
	(iii)	*prevent cruelty to animals.*
the provision and regulation of municipal services, public utilities or other activities that are necessary or desirable for persons and property	*(i)*	*regulate transportation services and systems;*
	(ii)	*control water supply, distribution, drainage and irrigation, services and systems;*
	(iii)	*control electrical, gas and communications services and systems;*
	(iv)	*regulate sanitary sewage collection, treatment and disposal services and systems;*
	(v)	*regulate solid and other waste collection, disposal and recycling services and systems;*
	(vi)	*regulate cemetery crematorium and columbarium services*
the regulation of any activity or thing that endangers or affects the safety, health or convenience of others		
providing for and regulating the raising of revenue or the recovery of expenditures by imposing fees, costs, rates, levies, tolls or charges for services or other activities of the municipality	*(i)*	*prescribe the fees, dues, charges, tolls or levies payable for a licence, permit, approval or other authorization;* *the fees, dues, charges, tolls or levies payable for anything provided or done by or on behalf of the municipality or for any service or assistance;*

(ii) *state the method by which fees, dues, charges, tolls or levies or the cost of services or assistance are to be calculated or assessed and collected, the persons by whom and when they are to be paid, penalties or interest for non-payment or late payment of money payable and discounts or other benefits for early payment;*

(iii) *describe how the costs can be collected, including adding them to municipal taxes payable in respect of property owned by the person responsible for paying the costs;*

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enforcement of bylaws, inspections for and remedy of contraventions of bylaws including any or all of the following

- *the creation of offences and, on summary conviction, providing for the imposition of penalties not exceeding $10,000 for each offence,*
- *on summary conviction, providing for the imprisonment of persons for not more than one year for contravention of a bylaw or non-payment of a fine, or both*
- *voluntary payment tags*

Fines imposed by a bylaw

(i) *can specify a minimum and maximum range applicable to second and subsequent offences;*

(ii) *can be a minimum daily fine for every day that the offence continues;*

(iii) *can provide that when conviction is for non-payment of fees payable to the municipality under a bylaw, the court may order payment of the fee in addition to the fine and costs;*

(iv) *can enact the procedure for payment to the designated officer of an amount which may be accepted by the municipality in place of proceeding with prosecution.*

A council may pass a general penalty bylaw for contravention of any bylaw or any number of specified bylaws.

If the voluntary payment of a fine is authorized under section 42 of the Provincial Offences Procedure Act,1 a council may allow for discounting the fine for prompt payment, and the amount of the discount must be specified in the bylaw.

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1 The Provincial Offences Procedure Act section 42 reads:

42 A local authority may make by-laws and, in the case of an improvement district or a special area, the Minister of Municipal Affairs may make orders,

(a) respecting the offences under a by-law or ministerial order, as the case may be, in respect of which a voluntary payment may be made;

(b) prescribing the amounts of the specified penalties payable in respect of offences referred to in clause (a).

the procedure and conduct of council, the conduct of councillors, and the functions, powers and duties of councillors, and the establishment, operation and functions of council committees and other bodies	*(i)*	*procedural bylaw,*
	(ii)	*rules of order at council and other meetings,*
	(iii)	*appointment of standing and executive committees,*
	(iv)	*a code of conduct for councillors.*

the organization, administration and management of the municipality, the delegation of functions, duties and powers, and providing for subdelegation, and generally for the good government of the municipality	*(i)*	*management, administrative and personnel policies and line of authority,*
	(ii)	*signing authorities,*
	(iii)	*delegations and subdelegations of authority, and appointment of deputies and acting officers.*
	(iv)	*allows names and numbers of houses or dwelling units to be prescribed and displayed,*
	(v)	*allows roads and areas to be named.*

within its bylaw making authority a council may make bylaws with the same effect and to the same extent that the Legislature can make law *(But bylaws must not conflict with Provincial enactments.)*	*(i)*	*a system of granting permits, approvals, licences or similar authority and prohibiting any development, activity, industry, business or thing until the licence, permit, approval or authority has been granted;*
	(ii)	*the one or more persons, including the council, having authority to issue a permit, approval, licence or authority, whether terms and conditions may be imposed and, if so, the nature of them and who may impose them;*
	(iii)	*conditions that must be met before a permit, approval, licence or authority is granted or renewed, the nature of them and who may impose them if they are not specified in the by-law;*
	(iv)	*provisions governing the duration and the suspension or cancellation of a licence, permit, approval or other authority for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;*
	(v)	*providing for an appeal in respect of any matter referred to in bylaws, the body to decide the appeal and related matters;*
	(vi)	*prescribe forms or authorize them to be prescribed.*
	Bylaws can prohibit or regulate	
	(i)	*development, activity, industry, business or things in different ways and may divide each of them into classes and regulate each class in different ways;*

(ii) *generally any act or thing collateral or incidental to the exercise of a bylaw making power.*

Schedule 4

Business Revitalization Zones

1 Definitions

In this Schedule

(a) "***board***" means a board of directors established under section 2;

(b) "***Business Revitalization Zone***" means a Business Revitalization Zone designated under section 2.

2 Designation of Business Revitalization Zone

(1) On the joint request of at least 10 persons in an area who are shown on the current assessment roll of a municipality as being assessed for business assessment, a council may pass a bylaw

(a) designating a prescribed area as a Business Revitalization Zone, and

(b) establishing a board of directors for the Business Revitalization Zone.

(2) Notice of council's intention to pass a bylaw under subsection (1) must be mailed or delivered to every person in the proposed zone who is shown on the current assessment roll of the municipality as being assessed for business assessment in the zone.

(3) No bylaw under subsection (1) can be passed if

(a) the chief administrative officer receives a petition objecting to the bylaw signed by persons entitled to receive the notice who represent at least one-third of the business assessment in the area, and

(b) the petition is filed within 60 days from the day on which the last notice was mailed or delivered.

(4) If the council is prevented from passing a bylaw because of a petition, the council may, on the expiration of 2 years from the day on which the petition was received, again proceed under this section to designate the

area as a Business Revitalization Zone.

(5) If a council that has not passed a business tax bylaw receives a request to establish a Business Revitalization Zone from at least 10 persons representing businesses operating in an area, the council may pass a business tax bylaw with respect to the area of the municipality for the purposes of this Schedule and then proceed in accordance with this section to consider a business revitalization zone bylaw.

(6) The business tax provisions of of Part 8 (Municipal Taxation) apply, with all necessary modifications, to a bylaw passed under this section.

3 **Board of Directors**

(1) A board is a corporation consisting of the following persons appointed by council

(a) one or more councillors, and

(b) the number of individuals nominated by the persons referred to in section 2 that are specified in the bylaw.

(2) The council may remove a person appointed to the board and may appoint another person.

(3) If a vacancy occurs on the board, the council must appoint a person who is eligible under subsection (1) to fill the vacancy.

4 **Purpose of Board**

The purposes of a board may include all or any of the following

(a) to improve, beautify and maintain municipally owned lands, buildings and structures in the area, in addition to any improvement, beautification or maintenance that is provided by the municipality;

(b) to acquire land necessary for its purposes and improve, beautify and maintain it;

(c) to promote the area as a business or shopping area;

(d) to undertake interim improvement and maintenance of any property it acquires for use as parking and subsequently to dispose of that property for public or private redevelopment for commercial purposes at a price not less than its fair market value;

(e) to conduct any studies or prepare any designs that may be necessary for its purposes.

5 Capital Projects

(1) In this section "capital project" means a capital project for any of the purposes referred to in section 4(a), (b) or (d), and includes the preparation of designs for the project.

(2) At the request of a board, a council may pass a bylaw authorizing the municipality to undertake a capital project in a Business Revitalization Zone.

(3) If a council receives a request from a board requesting a capital project in a Business Revitalization Zone, the council must advertise its intention to undertake the capital project, and Part 8 Division 7 (local improvements) applies as if the capital project were a local improvement.

(4) After notice has been given under subsection (3), a council may by bylaw authorize the issue of debentures to finance the capital project.

6 Levy to pay for debentures

(1) When debentures are issued to finance a capital project under section 5, the council, each year the debentures remain in effect, must pass a bylaw imposing a levy on all business assessments in the Business Revitalization Zone in which the capital project is located at a uniform rate that the council considers sufficient to raise the amount required to pay the annual instalments of principal and interest on the debentures, unless subsection (2) applies.

(2) A council may, in a bylaw, provide that part of the annual instalments of principal and interest payable in respect of the debentures is to be borne by the municipality, but if the portion of the cost to be borne by the municipality at large exceeds 50% of the estimated costs, the approval of the taxpayers must be obtained in a plebiscite.

(3) Despite subsection (1) and (2), if council thinks that the proposed facilities or structures will be of benefit to only a portion of a Business Revitalization Zone, the bylaw authorizing the issue of debentures must specify the portion so benefiting and the levies imposed under this section are to be imposed only on the business assessments within that portion of the Business Revitalization Zone.

(4) The levies authorized under subsection (1)

(a) are in addition to the levies needed to finance the board's activities described in section 8, and

(b) must be imposed by the council while debentures issued under subsection (1) are in effect even though the bylaw which established the Business Revitalization Zone is repealed.

(5) If a capital project is undertaken in a Business Revitalization Zone, the board may enter into an agreement with the municipality about the maintenance and operation of the capital project.

(6) Subject to subsection (2), a bylaw passed under this section has no effect until it is approved by the Local Authorities Board.

(7) The term of a debenture under this section must not exceed 10 years.

(8) A council may, by bylaw,

(a) authorize the municipality to finance a capital project by using reserves or other funds of the municipality and allow the municipality to impose interest charges in the same manner as if the funds were borrowed under a debenture, or

(b) authorize a system of levies that is a modification of the system of levies permitted by this section.

7 Finance

(1) At the time and in the form prescribed by council, a board must send council its estimates for the current year for council's approval, and may request of council any money that is required to carry out the board's powers and duties.

(2) On receipt of the board's estimates, the council must provide, in a form and manner it considers adequate, to every person assessed for business purposes in the area, notice of the estimates and the date and place of the council meeting at which the estimates will be considered.

(3) On approval of all or part of the estimates, the council must direct the payment of the approved amount to the board.

(4) The board may expend only money included in the estimates approved by the council and any member of the board who authorizes the expenditure of money not previously approved by the council is guilty of an offence.

(5) A board cannot incur an indebtedness extending beyond the current fiscal year of the board.

(6) In addition to the amount paid under subsection (3), the council may contribute to the board funds

(a) from money collected from the municipality at large, or

(b) from money collected as payments under an off-street parking levy imposed under the *Planning Act* if that money is used for the purposes described in section 4(d).

(7) The board must include in its estimates any funds

(a) contributed by a council pursuant to subsection (6), or

(b) received from the sale, lease or other disposition of land for commercial development,

but none of those funds can be used to promote the area as a business or shopping centre, or for related studies.

8 Business Revitalization Zone levy

(1) Subject to any maximum and minimum charges council specifies in the bylaw, the council must authorize, by bylaw, the levy on all business assessments in the area, of a uniform rate that the council considers sufficient to raise the amount required for the purposes described in section 7.

(2) A levy imposed under subsection (1) may be collected in the same manner and with the same remedies as are provided in this Act for the collection of business taxes.

(3) In addition to the levy under subsection (1), the council may, by bylaw, provide that the sum required for any specific activity of the board must be raised by a special benefit levy on the business assessment of those businesses considered by the council to receive a special benefit and the provisions of this Act with respect to local improvement taxes apply to a special benefit levy under this subsection.

(4) A designated officer must include in the assessment roll the businesses that are subject to a Business Revitalization Zone levy.

9 Annual Report and records

(1) On or before March 1 in each calendar year a board must send its annual report for the preceding calendar year to the council and that report must include a complete audited financial statement of its affairs, with a balance sheet and a revenue and expenditure statement.

(2) All records of a board are open to inspection by the external auditor of the municipality that established the board.

(3) A board may

(a) appoint one of its members,

(b) hire any person, or

(c) by agreement with the council, rely on the municipality

to maintain records and to make and receive payments.

10 Amendment of boundaries

(1) A council may, by bylaw, amend the boundaries of a Business Revitalization Zone.

(2) The provisions of section 2(2) and (3) apply to a bylaw under this subsection with respect to any business proposed to be added to the area.

(3) A bylaw under this section comes into force on the following January 1.

11 Repeal of bylaw

(1) A bylaw passed designating a Business Revitalization Zone and establishing a board may be repealed by bylaw to take effect on December 31 in the year in which it is passed.

(2) Section 2(2) and (3) do not apply to a bylaw under subsection (1).

(3) If a bylaw is passed under subsection (1), the board ceases to exist and its undertakings, assets and liabilities are assumed by the municipality.

Schedule 5

Model bylaw adopting a revision of bylaws

Revised Bylaws Adoption Bylaw
(or other appropriate title)

1 ***Declaration of revised bylaws in force***

The revised bylaws of . . . . .lodged in the municipal office with (name of officer), known as bylaw numbers _____ to _____ are declared to be, and are, the bylaws of the municipality called "(insert appropriate title)" as if the bylaws were expressly included in this bylaw.

2 ***Coming into force of revised bylaws***

The revised bylaws come into force on . . . . .

3 ***Bylaws repealed***

The bylaws listed in Appendix 1 are repealed.

4 ***Dead law not revived***

The repeal of the bylaws listed in the Appendix does not revive any bylaw previously in force.

5 ***Effect of revised bylaws***

(1) *The revised bylaws are not new law but have effect as a consolidation of the bylaws for which they are substituted.*

(2) *The provisions of the revised bylaws corresponding to and substituted for the previous bylaws, when they have the same effect, operate retrospectively as well as prospectively and are deemed to have been passed respectively on the days on which the corresponding previous bylaws came into force.*

(3) If the provisions of the revised bylaws do not have the same effect then

(a) for all transactions, matters and things on and after the day the revised bylaws come into force the provisions contained in them prevail, but

(b) with respect to all earlier transactions, matters and things the provisions of the previous bylaws prevail.

6 ***References to repealed bylaws***

A reference

(a) in bylaws passed before the coming into force of the revised bylaws and remaining in force after that time, or

(b) in any instrument or document to a bylaw repealed by this bylaw,

is, after the revised bylaws take effect, to be considered in respect of any subsequent transaction, matter or thing, to be a reference to the bylaw in the revised bylaws having the same effect as the repealed bylaw.

7 ***Printing and distribution***

The revised bylaws are to be printed and published in such style and form as . . . . . directs.

Appendix
(list of bylaws repealed)